



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21st DAY OF FEBRUARY, 2001 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi and Hales, 3.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Harry Auerbach, Senior Deputy City Attorney; and Peter Hurley, Sergeant at Arms.

- 204** **TIME CERTAIN: 9:30 AM** – Recognize charitable contribution by Portland General Electric of transportation system development charge credits to Oregon Food Bank (Resolution introduced by Commissioner Hales)

Disposition: Resolution No. 35965. (Y-3)

REGULAR AGENDA

City Auditor Gary Blackmer

- 205** Assess property for sidewalk repair by the Bureau of Maintenance for billing processed through January 5, 2001 (Second Reading Agenda 196; Y1041)

Disposition: Ordinance No. 175357. (Y-3)

Communications

- 206** Request of Romon Bunton to address Council regarding Housing Authority of Portland, Section 8, discrimination toward a single father (Previous Agenda 197)

Disposition: Placed on File.

- 207** Request of Patrick Dinan to address Council regarding rights with Police issues (Previous Agenda 198)

Disposition: Placed on File.

- 208** Request of Richard Koenig to address Council regarding unaddressed Police business (Previous Agenda 199)

Disposition: Placed on File.

At 9:51 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21st DAY OF FEBRUARY, 2001 AT 6:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi and Hales, and Sten 4.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Acting Clerk of the Council; Frank Hudson, Deputy City Attorney; and Peter Hurley, Sergeant at Arms.

Items No. 212, 224 and 225 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

- 209** **TIME CERTAIN: 6:00 PM** – Discuss and approve Police Internal Investigations Auditing Committee Quarterly Monitoring Report per City Code 3.21.085(5) (Report introduced by Auditor Blackmer)
- Motion to accept the report:** Moved by Commissioner Hales and seconded by Commissioner Francesconi.
- Disposition:** Approved. (Y-4)
- 210** Hear appeal of John Dorse, PIIAC #00-18/IAD #00-221, to the Police Internal Investigations Auditing Committee per City Code 3.21.085(4)(d) (Report introduced by Auditor Blackmer)
- Motion to uphold the PIIAC advisor’s recommendation:** Moved by Commissioner Hales and seconded by Commissioner Francesconi.
- Disposition:** Appeal Denied. (Y-4)
- 211** Hear appeal of Karl Watson, PIIAC #00-25/IAD #98-209, to the Police Internal Investigations Auditing Committee per City Code 3.21.085(4)(d) (Report introduced by Auditor Blackmer)
- Motion to adopt a finding of sustained:** Moved by Commissioner Hales and seconded by Commissioner Sten.
- Disposition:** Reverse PIIAC Decision and Uphold Appeal. (Y-3; N-1 Mayor Katz)

CONSENT AGENDA - NO DISCUSSION

Mayor Vera Katz

- S - *212** Authorize contracts with Portland General Electric to perform energy efficiency analysis and recommendations and waive the requirements of City Code Chapter 5.68 (Ordinance)

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Motion for a substitute: Seconded by Commissioner Sten and gavelled down by Mayor Katz after no objections.

Disposition: Substitute Ordinance No. 175355. (Y-4)

- *213 Amend contract with Russell Construction for remodel of The Portland Building 5th and 6th floors for the Bureau of Water Works (Ordinance; amend Contract No. 32917)

Disposition: Ordinance No. 175342. (Y-4)

- 214 Authorize a lawsuit against individuals Brent Vasilieff and Tony Hooper (Ordinance)

Disposition: Passed to Second Reading February 28, 2001.

- *215 Accept \$176,375 from Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms for the G.R.E.A.T. program grant (Ordinance)

Disposition: Ordinance No. 175343. (Y-4)

- *216 Intergovernmental agreement with Housing Authority of Portland for a Liaison Officer (Ordinance)

Disposition: Ordinance No. 175344. (Y-4)

- *217 Amend an agreement with the State of Oregon to revise scope of work and increase Interstate Station Area Revitalization Strategy Transportation and Growth Management Grant in an amount of \$60,000 for a total grant amount of \$240,000 (Ordinance)

Disposition: Ordinance No. 175345. (Y-4)

- *218 Adopt the Intergovernmental Agreement to Develop Salmon Restoration Analysis (Ordinance)

Disposition: Ordinance No. 175346. (Y-4)

- *219 Amend City Code pertaining to absence due to the death of a relative (Ordinance; amend Code Section 4.20.080)

Disposition: Ordinance No. 175347. (Y-4)

Commissioner Jim Francesconi

- *220 Authorize Management Agreement with Metro for Campfire property and grant easement over land adjacent to Washington Park Zoo in lieu of City contribution for acquisition (Ordinance)

Disposition: Ordinance No. 175348. (Y-4)

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- *221** Authorize a local agency agreement with Oregon Department of Transportation to accept Transportation Enhancement Act 21 funding for the Springwater Corridor (Ordinance)

Disposition: Ordinance No. 175349. (Y-4)

- *222** Amend ordinance authorizing acquisition of the Obrist Property to allow for costs of relocating tenants (Ordinance; amend Ordinance No. 175065)

Disposition: Ordinance No. 175350. (Y-4)

Commissioner Charlie Hales

- *223** Authorize agreement with Oregon Department of Transportation to undertake the Portland Arterial/Freeway Intelligent Transportation System Project (Ordinance)

Disposition: Ordinance No. 175351. (Y-4)

- *224** Contract with Clarks Energy Services Corporation for \$30,000 and Gardner Energy Management Group for \$30,000 to provide energy code plan review (Previous Agenda 180)

Disposition: Continued to February 28, 2001 at 9:30 a.m.

Commissioner Dan Saltzman

- *225** Authorize the Commissioner of Public Affairs to enter into an agreement with other potentially responsible parties to fund a remedial investigation and feasibility study for the Portland Harbor Superfund Site (Ordinance)

Disposition: Ordinance No. 175356. (Y-4)

- *226** Authorize a contract and provide for payment for the construction of the N. Webster St. and N. Albina Avenue Combined Sewer Replacement and Detention Project, Project No. 6353 (Ordinance)

Disposition: Ordinance No. 175352. (Y-4)

Commissioner Erik Sten

- *227** Authorize a contract with The Ultimate Software Consultants, TUSC, for Oracle database services in the Water Bureau (Ordinance)

Disposition: Ordinance No. 175353. (Y-4)

City Auditor Gary Blackmer

- *228** Amend contract with KPMG LLP for financial audit and other professional services for FY 1999-2000 and provide for payment (Ordinance; amend Contract No. 33084)

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Disposition: Ordinance No. 175354. (Y-4)

At 8:30 p.m., Council recessed.

FEBRUARY 22, 2001

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 22nd DAY OF FEBRUARY, 2001 AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Hales, President of the Council;
Commissioners Francesconi and Sten 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Acting Clerk of the Council;
Kathryn Beaumont, Senior Deputy City Attorney.

REGULAR AGENDA

Commissioner Charlie Hales

- 229** Tentatively deny appeal of the Pearl District Neighborhood Association and DPR Construction, applicant's representative, and uphold the Portland Historic Landmarks Commission decision to approve a historic design review with conditions at 1415 NW Hoyt Street, Portland Pearl Tech Center (Findings; Previous Agenda 164; 00-00678 HDZM)

Motion to approve the revised findings: Moved by Commissioner Sten and seconded by Commissioner Francesconi.

Disposition: Appeal Denied. (Y-3)

At 2:08 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland



By Karla Moore-Love
Acting Clerk of the Council

For discussion of agenda items, please consult the following Closed Caption Transcript.

FEBRUARY 21, 2001

Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

FEBRUARY 21, 2001 9:30 AM

Katz: We're going to have a very quick agenda today. Let's take time certain. Let's pull -- i'll pull it off tonight. 204.

Item 204.

Hales: This is really one to celebrate. It's a great partnership between the city and Portland general electric, who -- which had accrued quite a bit of credits under our systems development charge ordinance, and the Oregon food bank. So we have some folks here to talk about this this morning. I think we want to call up peggy fouler and jerry tippens and rachel bristol, and joyce rhineman from pdot to talk about this, what they're up to and how lit work.

Katz: Come on up.

Hales: Come up in groups of three or four and then we can get the rest of the group up later.

Katz: Peggy, we'll start with you.

Peggy Fowler, Portland General Electric (PGE): Peggy fouler, ceo of Portland general electric. As we all know, pge is in the business of providing electricity and most people look at it as a basic need. Certainly what the pow -- with the power shortages we have people are much more aware of it, but I think lack of food isn't getting near the type of media attention that it deserves, and food surely is something that we can't survive without. We can survive without electricity, but we can't survive without food. Even though Oregon's had great economic growth, we continue to have some of the highest percentage of more than any other state, of people not having enough food. And Oregon food bank, along with the city, county, and state agencies are working close together to help take care of this hunger gap and it's very important for all of Oregonians and especially for our children. The Oregon food bank has done a great job of working on a new facility that will provide more capacity, it will accept food donations as well as provide space for more volunteers, and Portland general electric's very pleased to donate \$105,802 worth of transportation system development charge credits for the Oregon food bank. We accrued these credits on some of the work that we did in a local improvement district and we're donating them to cover the full transportation sdc charges for the food bank. I particularly want to thank commissioner Hales and his staff for this resolution recognizing the contribution that enables the food bank to devote more resources to eliminating the cause of hunger, and I hope that something like this will give some other people creative ideas on how to help the food bank and take care of this major issue for Oregonians and I think it's something we can all feel very good about being able to participate in and help.

Katz: Thank you, peggy. Jerry?

Jerry Tippins, Oregon Food Bank: Madam mayor, another distinguished members of this council, thank you very much. I'm jerry tippens. It's interesting to deal with you from this side of the table as an advocate for a worthy cause instead of as a representative of the presentation, after those many years. I want to on behalf of the food bank thank this partnership for what you've done to help us along with our campaign. The work of the council, staff and pge in identifying the development credits and making it possible for this contribution to be made is really

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overwhelming. We appreciate it, putting together the food bank that we need to serve the people of this state. You know, when we first started talking seriously about capital campaign, and a new structure, it was four years ago. Things had gotten so bad, that 364,974 people in the state of Oregon relied on emergency food boxes. We had to come up with 20 million pounds of food to deal with that. We knew something had to be done. Four years later, 514,979 people rely on emergency food boxes. We've more than doubled our food supply at 41 million pounds. All we're doing is running in place. We're just barely crying to keep up with hunger. We're not really getting on top of it. And at that, we still had to put some perfectly good food in the landfill because we weren't able to accommodate it when it came in. When we finally complete the construction of this new food bank, all of that will come to an end. We not only will capture that food going into the landfill, we'll go out and get even more. We will finally I think get on top of this hunger problem instead of just trying to react to it, get on top of it where we can finally begin to roll it back. The contribution and the partnership that this council and its staff and pge have made go a -- a long way toward helping us with that goal. Thank you very much.

Rachel Bristol, Executive Director, Oregon Food Bank: It's hard to find something to add after Jerry's speech. I'm Rachel Bristol, executive director of the Oregon food bank. I just want to -- I want to thank you for all of your help in making this contribution possible. This represents the largest corporate grant to our capital campaign to date, and just as a brief update, we are just under \$7 million towards our \$9.75 million goal. And our -- essentially in a no-fail position to build this building, to be able to divert \$500,000 that would otherwise go into leases into moving more food, and developing more programs that help people to meet their own food needs more directly than through charitable sources. Commissioner Hales, I need to thank especially, Jillian Detweiler in your office, she put up with me, helping me understand what an SDC is, and helping us understand the possibility of donations. So it really is a great contribution and we appreciate the partnership.

Joyce Reyman, Transportation Engineering, Portland Office of Transportation (PDOT): Joyce Wyman, Portland office of transportation. These folks have really said it all. I got a call from Jillian suggesting we hook up the food bank and pge, and a couple of phone calls later it was done.

Katz: Jillian, come on up.

Hales: She was trying to hide in her office and I wouldn't let her.

Katz: Tell me how you got this brilliant idea. The.

Jillian Detweiler, Assistant to Commissioner Hales: Steve Redman had called looking for additional support, and I just had an ah-ha. I knew some people out there had credits, and fortunately pge was generous enough to contribute them.

Katz: So it was one of those ah-has. We look forward to the ah-has. We don't get them very often, but this one worked. Thank you. Good work. Anybody else want to testify? All right. Everybody, roll call.

Francesconi: Jillian, you deserve a special plaque or notice or something. Somewhere. I mean, 125, that's a real tribute. It's a tribute to Charlie to have the good sense to put you in a position like that where you can make a difference. But it was pge that came through. So for us to solve this hunger problem, it's going to take government, the private sector, and great people through the nonprofits. I was going to ask you, Rachel, maybe you can tell me afterwards, why it is in this good economy at least where Oregon is ahead of the curve economically, we are the 50th. But we can talk about that. But it's going to take everybody, this is a great effort. Aye.

Hales: To me this just seems like Portland is best. Here we have a corporation that wants to do the right thing that has an attitude of helping, and that's essential, and thank you, pge. We do have creative effective people in the city hall, and Jillian is one of them, and I'm proud of her. This was

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her idea, and she deserves some kudos because it was a very good idea. And then we have the amazing energy and dedication of the nonprofit sector, and the food bank is a great example of that. And we have a public agency that figures out how to solve problems instead of creating obstacles. Thanks, Joyce, for great work. It's really to me this is Portland at its best and I appreciate everybody's good work here. Aye.

Katz: They said it all. It is Portland at its best. Creativity, generosity, good staff work, and the ah-has that come so infrequently. But when they come, they really make a major statement for this community. Aye. Thank you. All right. Thank you, everybody. Only \$2 million short. A piece of cake. All right. Thank you, everybody.

Item 205.

Katz: This is a second reading. Roll call. **Francesconi:** Aye. **Hales:** Aye.

Katz: Mayor votes aye. We're into communications. 206.

Item 206.

Katz: Romon, why don't you come on up. Introduce yourself. You have about three minutes. Bring the mike closer to yourself. There's a clock on the screen, so it gives you a hint of how long you have. Go ahead.

Romon Bunton: Okay, my name is Romon Bunton, and the reason I came up here is because the problems I'm having being a single father, I've been turned down, tried to be turned down from agencies that only say they only allow to help women or they're only capable of helping women when I've tried to get housing from section 8 and housing authority. And things of that nature. I was put on a waiting list because all the women got the houses first. Then there was no more vouchers left. They claim it's federally funded. I've tried to call different commissioners officers and your office, Ms. Katz, and the senator's office and the governor's office, and no matter what, I still get no, no help from anyone. I was involved with CSd, CSf, Afs, I got a referral to -- for my application, and there was nothing anybody could do as far as getting me and my son into housing. My son is 10 months old. Right now I'm living with my mom, but that's a temporary situation. I've been trying to become self-supportive. I've had my son for 21/2 months now, full custody, and I've just been trying to do everything I can to find a job and become self-supportive and be on my own and do things I need to do so I can take care of my son the way he needs to be taken care of. I keep running into obstacles with WIC, section 8, housing authority as far as me being a single father. Just being told no, for example, I called WIC to try to get WIC for my son because formula's expensive, and they told me it stood for women in crisis, women infants and children, and they weren't capable of dealing with single fathers. Hi to threaten to call my lawyer before they agreed to give me WIC. I've been turned down for a couple of jobs because I'm a single father, saying I'm unreliable when they need me to be there. A lot of things that I don't think would I have to do if I was a female. And it sounds backwards, but if I was a female, I wouldn't have all these problems. There's shelters and transitional housing and things like that that would help me, but there's no groups, there's no nothing to help single fathers out there who actually need help and want to do the things they need to do. That's basically why I came up here.

Katz: Thank you. All right. 207

Item 207.

Katz: Is Patrick here? I don't see him. 208.

Item 208.

Richard Koenig: Good morning, city council, and good morning out there in television land. We have an unfolding investigation here, and as much as we've asserted our need for it and asked for the proper forum and having heard no better alternatives than this, Mr. Aurbach, the thing I asked

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you was to confirm where the police report, the crime report is that I turned in to you a couple weeks ago. Can you tell us where that is now?

Katz: We're not going to have a dialogue.

Koenig: Excuse me. I'm not calling for dialogue. Do you understand what dialogue is? I'm just asking for information.

Katz: I have had about enough.

Koenig: Excuse me, mayor.

Katz: Continue with your three minutes.

Koenig: I don't think three minutes is in order today. We've got some past-due business. I was on the agenda for last week, and due to your pity party here, I got bumped. Seems like the taxpayers aren't treating you well enough. Well, maybe this is a reason why. A couple weeks ago when I was here, I came in preannounced to file a crime report against a judge that i'd been thrown in jail for attempting in the past, lied about by your boys in blue, I turned that in to mr. Aurbach and I told him specifically, i'll be back next week, which was last week, to confirm where that crime report is in the process. The only place that it should have ended up by now is on the desk of mr. Shrunck, the district attorney. I don't see what the problem is in him just saying, is it in the right place. Is it in the right place? Yes or no? That's my -- that's not dialogue, mayor Katz. Dialogue is where we engage in a back-and-forth exchange of ideas. I'm just looking for a simple yes or no answer. Is it in the right place? Okay. Let's assume that it's not in the right place. Let's assume that not only are the police incompetent to take police reports, not only do they do the wrong thing when they refer me to the city attorney to render the police report, and you know that I was referred by sergeant stevenson, because I turned in his referral in writing to you folks three weeks ago, but here we have an example of how screwed up this whole thing is. This is from the city attorney's office. Our office intended to send a response to you via fax last thursday. Actually, it was wednesday, february 15th. I apologize for the delay. I was out of the office on friday, it doesn't say who was out of the office, there is some confusion on what we are responding to. I don't know how it could have been articulated any clearer than, I will be back next week. Or, confirmation of the handling of this thing. And I did follow is that up in writing, and I did get told specifically that I would have that information in my hand via fax transmittal, but here they're saying we're confused. Then I was going to go on to start unfolding the investigation here with the nine-page affidavit I submitted to the chief last september. I was told by mark parissi that it had been transmitted to the city attorney's office. Well, this says that we don't have that. We did not receive it in our office. This is evidence that not only is mail being stolen or misdirected out of the chief's office, the incoming mail, like the complaint I filed against mr. -- captain smith, was stolen or misdirected out of the incoming mail, but now we have evidence that somebody is stealing or misdirecting outgoing mail.

Katz: Thank you.

Koenig: If this is an indication of how you folks are going to do business, let's get together sometime and fix the problem.

Katz: Thank you.

Koenig: Oh, and when can we have the dialogue, mayor?

Katz: I'm not interested right now.

Koenig: Okay. Let's set a date.

Katz: When --

Koenig: Next week after you have a chance to consult your calendar, i'll ask you the same question, mayor.

Katz: Richard, what -- when --

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Koenig: Mayor --

Katz: We stand adjourned.

At 9:51 a.m., Council recessed.

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Katz: Roll call.

Francesconi: here. **Hales:** here.

Katz: Mayor is present. Item 212.

Item 212.

Katz: Okay. We have a substitute. We didn't have -- is there a major change in the substitute?

*******:** The only change is in the name of the program from the time that we submitted the original ordinance, pge changed the name of the program.

Katz: Okay. I'll take a motion for a substitute.

Sten: Second.

Katz: Any objections? Hearing none. Anybody want to testify? [roll call]

Francesconi: Aye. **Hales:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. 224.

Item 224.

Katz: Do you want to pull it, commissioner Hales?

Hales: That has been pulled back to my office.

Katz: Any objection? Hearing none, so ordered. 225.

Item 225.

Moore: Authorize the commissioner of public affairs to enter into an agreement with other potentially responsible parties to fund a remedial investigation and feasibility study for the Portland harbor superfund site.

Katz: We need now to move rather quickly in meeting with the responsibility parties and with epa to begin to assign a work plan and identify how much of our resources we're going to be putting in to some of the work plan requirements. I have asked commissioner Saltzman and dean marriott, actually dean marriott to take the lead on that. So the work is proceeding. You will be getting another ordinance requesting funds, most of it we have in the budget, to proceed with our portion of at least the first phase of cleaning up Portland harbor superfund. Anybody else want to testify? Let me just add that I think this is also one that still needs to be tied to and coordinated with the work that commissioner Sten is doing, the work that planning is doing, parks, pdc, on the river and all the work around the river. But this is very discreet work that technical work that needs to be done by our city attorney, and by the bureau of environmental services.

Francesconi: I'm the one that pulled it, just because I wanted to thank you both for this coordinated approach, but I also wanted to request a little more information at some point. Not now. I think this is very good. It might be time for us to have another informal on the subject so we can address some of these concerns.

Katz: I think you're right. We're about at the point where we can give you a little greater detail as we begin working with the responsible parties. I think they're about 27 of them. Is that right? 27 of them. All right. Did you want to add anything? No. Roll call.

Francesconi: Aye. **Hales:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. All right, everybody. 209.

Item 209.

Katz: I've also asked -- is the chief here?

Hales: Yes.

Katz: Come on up. I recall in the -- months ago there was a recommendation by piiac that -- at the monitoring reports we also have the opportunity to hear from the chief. So that there is a system of

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accountability and the ability of the council to question the chief. Usually the chief isn't here, and so the council feels frustrated. So I want to thank the chief, because he had another meeting with the latino community and I want to thank them for releasing you to be here. But I think it's important, because i'm sure that part of the recommendations the council is going to give is to make sure the chief of police is here to respond to the monitoring report. Because there is a written response, but I think it would be nice if the chief provided it to you. So, gary.

Gary Blackmer, Auditor of the City of Portland: Let me do a quick introduction. This as you know is part of our -- we're in the midst of the process of reviewing the activities of the police internal investigations auditing committee. It's nice to be able to see 90 operation. It's like hearing all the squeaks in a car and the bumps and being able to identify the places where we can put a little grease in it to make it work better. To that degree, we're observing these things as they go along. This work is a result of the efforts of the citizen advisors over the last quarter, and we're watching the process and seeing how it works and hopefully about march 15th we'll be giving you a draft report of our conclusions. I'm going to stay as long as I can tonight, but I have to pack because we're heading for minneapolis.

Katz: Who's going to minneapolis. Why don't you give the council a sense of where you're going and where you are in terms of --

Blackmer: I think we go chicago, minneapolis, denver, san francisco, san hoe says -- san jose, and back to Portland. Denver and chicago are extra stopovers that we have to make in order to make our connections.

Katz: You're going with --

Blackmer: We're interviewing the directors of the internal investigations counterparts in minneapolis, san francisco, and san jose, we're also talking to police represents and citizen represents. We won't be able to talk to everyone we want to, but we think we can gets more phone numbers and do follow-up phone conversations after we get back. It's for us a real opportunity to see people, talk to them, have some extended conversations about what works in their cities so we can bring those ideas back here.

Katz: Good. Okay.

*****: I'm very happy chief kroeker is here too. I actually didn't recall that the council had asked for him to be --

Katz: Before your time.

*****: Pardon me?

Katz: Before your time.

*****: Oh, before my time. I'm glad to hear that.

Katz: Why don't you identify yourself.

Mike Hess, Examiner, Police Internal Investigations Auditing Committee (PIIAC): I'm mike hess, the police internal investigations examiner. I just want to mention that we have several of our citizen advisors who are here tonight, and also several members of the internal affairs division, and I would -- i'd like to get it turned over to them as quickly as possible here and the -- our chair of our subcommittee for monitoring is mr. Bob Ueland. He will be presenting the report to you. I'd like mr. Charles ford, our chair to be up here with him.

Katz: Bob, come on up. How would you like to proceed? Would you like to do the whole report and have the chief respond? Or respond as you go through the recommendations?

Ueland: Well, what I want to do is just do the recommendations, and I don't know that the chief has had a chance to do a -- preview this or not.

*****: I have not seen the report.

Ueland: What he works on normally with us, the last monitoring report, which he has replied to.

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Katz: Maybe he can hear the --

Ueland: He can hear some things and give a quick reaction. But this is -- this is blind sighted. So the monitoring committee has prepared a report for the third and fourth quarters of the year 2000, and the full committee has adopted that report and asked that we bring it to you for approval and forwarding to the chief. And I would -- you all got copies of it. I would suggest that we turn to page 11, which is where we similar rise our recommendations. I'd like to go true those -- through those each, and we can deal with this one at a time if you have questions or comments to make, and at the end we would pray for your approval of this report.

Katz: Okay.

Ueland: So on page 11, a summary of our recommendations, number 1, we continue to await a revision of general order 310.40, making the guidelines for acceptable use of profanity more specific. Any questions on that? Or comments at this stage? We again -- number 2, we again request a commitment from the police bureau to regularly cycle a refresher course of diversity training during the in-service training for all officers.

Hales: I'm sorry, you moved too fast on the first one.

Ueland: Okay.

Hales: I guess one thing i'll be curious to hear about is the current general order says that profanity can be used by the officer to establish control. I guess I need to hear not necessarily now, but when this issue comes back, is that still recognized appropriate police practice to use profanity to use --

Mark Kroeker, Chief, Bureau of Police: Not exactly. It authorizes the use of profanity to establish control under extreme situations. And holds officers to a standard of courtesy in every case. We are looking at this, and i've gone through a process of looking at how other cities handle this particular issue and we have gathered that information now, we're having discussions inside the organization, and with -- and it's on our agenda to discussion with the -- discuss with the new leadership of the Portland police association, also for how that might be tapered to reduce this problem.

Hales: That's sort of an open question.

Kroeker: It is.

Hales: I'll look forward to hearing more.

Katz: Let me be very specific about that. The chief and I have had conversations about that, and because of those conversations, he has gone back and taken a look at other cities. I think it needs to be changed.

Hales: That's good.

Francesconi: I guess while we're at it, let me add my same opinion on there. Just like chief, you've instituted some grooming standards in order to kind of show a certain professionalism, I think that maybe the same thing ought to apply on verbal behavior. Where we set a higher standard. And so if there are circumstances where an officer uses profanity, where it's justified, in other words, because of the circumstances, but it's not used as a policy, so -- so, in other words, it's discipline is not imposed because of the use of it, because an officer is under extreme duress, that makes sense. But on the other hand using it affirmatively as a policy doesn't make much sense to me.

Kroeker: No. We are finding that in a substantial number of cases, it's what the officer says that occasions the complaint by the person. The question of whether the inappropriate nature of what the officer says is occasioned by this general order that allows profanity for extreme situations is wide open to discussion. I'm not sure that is the case. I think we have a supervisory issue more profound than just a piece of paper that talks about, it's okay to say, put sort of square word gun down. And so we're looking at this in very clear eyes, recognizing as you say, you know, our

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approach to professionalism, customer service, proper treatment of people, courtesy to our people, something that we must demand. And I do not condone the improper treatment of people or the way that we address them. But looking at this, I do not want to put the officers in a position either whereby they are endangered. The other side of that is you say, well, you know, if you have escalation of force, you get to a point, if shooting occurred, did you use profanity? Well, no. You say, why not? Because now that was a proper use of a technique that would control the person. So there are a lot of discussions that come around this whole issue of what the officers are saying.

Francesconi: Are there any studies anywhere in police work that show that the use of profanity contributes to control?

Kroeker: There are not studies that I have found. And i've looked at these other agencies now. We have very specific, as we have discussed inside the organization, the real possibility of rescinding this order and restructuring it. Very specific anecdotal evidence that the use of a swear word saved the day in a very critical situation. What I do not -- and I would not condemn an officer if that were the case. What I do not want to have happen is to have this slippage that goes from that case to the everyday contact with a person in, let's say, a routine traffic stop. I don't want that to occur. Somewhere in between there's room for a policy adjustment, and we're looking at it.

Katz: I'm sorry, bob.

Ueland: This is a great discussion. And carries -- we're glad to hear that, you know, response to this one, which we keep bringing back. Number 2, we request a commitment from the bureau to regularly cycle a refresher course in diversity training during the in-service training. Let me amplify on that. The officers get 40 hours a year, all officers, is my understanding, and that's not a lot of time, because they have a lot of ground to cover. It's my understanding that one hour of that is devoted to diversity training. This year it was on transgender issues. And I guess you can't do the impossible. I know they've got their priorities, but again, the arrest records seem to show that 26% of the arrests happen to 7% of our population. And so it's a constant nagging thing. Is there something going on here? Is there some misunderstanding? Why is it we can't adjust that arrest record? I'm norwegian. If 26% of the arrests were of norwegians, I would be concerned. So i'm concerned about the people who are being arrested to that extent. So that's why it seems like there's one hour that's devoted every year, maybe that's all that can possibly be squeezed out, but we will keep asking that it be increased.

Katz: Just jump in whenever you want to.

Kroeker: I don't want to --

Katz: Go ahead. That's why we asked you to be here.

Kroeker: The nature of this training goes on in all our curriculum. I should point out not only in this particular course of in-service. The basic academy, the in-service, the -- for example, the spanish language and mexican culture program that is now ongoing, which myself participated in. The variety of other ways that we continually refresh the knowledge of our individuals with regard to diversity. And so, no, it is never enough. And to say that, well, we do an hour and that's all there -- that's going to take place, that's not the message we want to communicate. We want to remain open to new opportunities, to expose our officers to the nuances, the sensitivities among the various groups, and the struggles that are going on out there. So to me this is important. The training right now that we're going through in transgender issues is ongoing in this particular phase. As we go into the next phase, there's always a new topic that comes in -- up in this discussion. And we'll continue that dialogue.

Katz: Thank you.

*******:** If I can add --

Katz: Just identify yourself.

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Charles Ford, Chair Person, PIIAC: My name is Charles Ford. My experience with this is in 1985, because of circumstances that happened in the city of Portland, we the community came together and came to city government and said, we would like to see not just an in-service training concept, we want that to continue. We specified a training, the city bought it, we were able to bring a trainer in, a person, a professional, to train and talk to officers to a 12-week basis. That was instituted for five years. We hear what you're saying. It's part of the in-service training. But as we review cases and know there are many, many cases that jump out at you, we still sense a need to do more than what we're doing. I'm sure that effort is being tried. I would hope that the chief, along with you, the council, will take a look at setting aside some time and some dollars to look at doing a better job on what we call a cross culture training. The bottom line, it means the same. It was effective then, that's been 15 years or better ago. We think it can be equally as effective today. Many young people are coming on as police officers, coming from different communities, don't have the same understanding that we do who live in a more -- multicultural society. We think it behooves us as a city, as a government to offer as much training as possible.

Katz: Thank you, Charles.

Francesconi: Let me make a brief comment. I really appreciate your commitment to diversity, chief, and diversity training. I think the best -- I appreciate the efforts that you've made in the -- and the mayor's made. I know there's been controversy recently, but I think your decision to go to a two-year degree can help in this regard. And I just wanted to acknowledge that. But I also appreciate the efforts that you've made on training, and so I think your racial profiling task force actually recommended more training as well, and I guess my request is to just, if you could take this back and see what you could do on the training side, because I think -- in fact, we have a case today that the allegation is made, and I think a lot of this could be headed off by some of the training that Charles talked about.

Kroeker: The racial profiling blue ribbon ban et, there were a number of recommendations. Some of them are overlapping to the -- these recommendations. And these have all been placed in the structure of the organization in the process of projects that have gone to various parts of the organization, to make reports back to me. So that's just now in order in the first open meeting of the blue ribbon panel with community will be sometime in April as we have our first three months of data capture and the various things that have been done on these projects. So we'll have more to report in the month of April.

Francesconi: Okay.

Ueland: Thank you, chief. Number 3, we strongly urge the police bureau to act quickly to simplify public records, accessibility and make the fee schedule equitable for all citizens. We look for the implementation of the chief's commitment to make public documents such as the general orders available via the internet, and we also repeat our request that the general orders and other appropriate public documents be made available at public libraries.

Kroeker: And here we are in the process right now, a very important one I believe, that is taking the general orders of the organization, as you know, huge binders, and we're writing -- rewriting them, extracting from them all the extraneous writing and so forth and just get the very essence of these orders and their procedures and policies into a handbook-sized volume that we'll be distributed to every police officer for carrying with them at their work. So they can refer to this. This also now is in fact in computer form, so accessible at all of our terminals through the organization's system. Where we need to make -- the thing that may be a little more difficult with the volume that is in that book and putting that on our web page and making it accessible may be a little bit more difficult, but we won't be able to get there until we have it in a smaller handbook

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form that is coming up in the next month or two. Our first version, which will be distributed to all our members within the next two, three months.

Ueland: Thank you Number 4, to reduce the number of complaints about officers refusing to provide their name and dpss team number, we recommend the chief specifically address this issue with the training division and commanding officers. It's one of those things that keeps coming up in cases that we read.

Kroeker: Right. And here until the last session of the in-service training, there was a block having to do with internal investigations, there was a treatment of it. In that particular phase, every sworn member of the organization was exposed to the concept of making sure in the iad's discussion, making sure that to those who requested, according to the general order, your identity is given in the form of a business card. In addition to that, all of our new-hires, all of our basic and advanced academies, the promotional training, the roll calls that are taking place right now, and the iad's new training programs all have a component that urges the officers in situations where they are requested to provide their identity to give the card. So the policy is in place. The supervisors have been admonished and reminded to impose this policy to hold officers accountable for it, and the training is ongoing right now to make sure that the officers are in fact doing this. And the complaints that we are getting do not show that -- in large number, anyway, that there is an ongoing, you know, violation of this particular order. So we'll see how our complaints go when -- in the months and years ahead, but there has been a rather intense and specific focus training on this very subject.

Ueland: I think that's good. I can't -- I guess I can't overemphasize how important that little piece of common courtesy is, I think, in avoiding these complaints that come through and then when we read them, that's -- that begins to escalate into a bigger situation. If that can't be accomplished by the officer providing a name and/or that dpsst number. So hopefully as you say, that training is going to benefit an office -- and officers need to understand it would solve a lot of these interpersonal difficulties. Number 5, we recommend the mechanism be instituted whereby all iad cases internal affair department cases are tracked based on how long they've been open and that the iad captain and the chief be provided with a list every month of cases that have been open for, say, 60 days, 90 days, six months, a year. It seems like it's such a surprise when these cases come through that are -- and I -- it's your system, and -- but it just seems that if you had an idea every month that there were some cases out in that are really hanging, you would be asking for answers and the whole -- the accountability is what's a little puzzling to us, is how these things are slipping through and winding up taking so long with -- and there doesn't seem to be a system in place, maybe there is, enlighten us.

Kroeker: All right. Now, here we have made some -- taken some steps, and I might add, out of our own budget, to double the size of iad, as you know. The addition of five extra sergeants there, the addition of a lieutenant for oversight, a clerical individual to help with the casework, and tracking. A tracking system now that is doing just what you had talked about, that demonstrates for us what we're doing, in addition we have been looking outside of our own jurisdiction at a variety of other tracking methods that are taking place in the united states. I discussed this recently with the variety of chiefs of police in new orleans at the major cities chiefs conference. In addition to that, I need to remind all of us that the putting in place of our iad expansion is going to take some time for the results to be seen now. And, you know, the backlog isn't going to be handled overnight. However, I fully believe, and i'm not going to get -- give specific numbers -- that within the next 60 days we're going to have some very, very encouraging word on the average time that is being taken for these cases now, and the length of the longest case in -- that is the oldest case in our -- in our inventory. And so we're going to have some very good positive news for you and all of us

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very soon on what iad has been doing with the people who have been very carefully selected to be part of this -- be part of this work.

Ueland: Thank you. In all fairness to the bureau and to the chief, in other parts of this we praise the chief for having made this commitment and having doubled the strength in iad. And of course it remains to be seen, I don't know if that's the answer and i'm sure he doesn't know yet, although it appears it could be.

Kroeker: One answer.

Ueland: I think there are process issues, there are a lot of issues out there that -- when you read these cases contribute to making them start to drag out. But certainly you've made the commitment with manpower, and I would hope that budget restrictions don't get you in a situation where you have to stop that before this has been dealt with.

Katz: There are budget implication, but let me ask you, is there a data system in place to flag these?

Kroeker: Yes, there is.

Katz: Okay.

Kroeker: There's a case management system in place, and after all, it's not an enormous amount of cases. And so we're not talking about, you know, a computer nightmare here. We're talking about just simple tracking of cases that are there.

Ueland: I guess to put 90 perspective, the appearance to the public, which we're members of, because we're -- we only hear about these two or 3-year-old cases, those are the ones that seem to rise to the top. And obviously that's -- that doesn't apply. All the cases aren't that long. But I guess appearances are so important, and it's just one of those things that I hope the bureau is aware of, that to the public all you need to do is see one case that's dragged out for two years, for whatever reasons, and they're going to assume that most of them are that way.

Kroeker: I agree.

Ueland: But you applaud you. You've made the commitment and we appreciate that we request -- this is number 6 -- on whether the problem of lifting and transporting uncooperative and unwilling heavy persons has been further addressed.

Katz: Explain that. That was a case that they had.

Kroeker: Yes. I know about this case, although I don't think it was one of those older cases.

Ueland: No.

Kroeker: But there is a training video on this, of lifting heavy persons who are compliant.

Ueland: Yes.

Kroeker: And I guess this other part of it, the adaptation of our policy for people who are not is still under study in development now. I do want to point out that while this may have been a case to my understanding, this is not a trend. This is not a daily occurrence and a problem of significant magnitude. We do want to address it, and we will. But I want to point out that we don't have a string of cases to point to a trend that needs to be addressed.

Ueland: Well, I know, but we had one, and I don't know if that type of person came along again and -- in those circumstances, it's not really fair to officers either, because they don't want to hurt themselves, they don't want to hurt the person, and yet there doesn't seem to be any training as to how to deal with this. Call an ambulance -- I don't know.

Kroeker: We're we are right now, is the development of a training bulletin that will essentially say this -- you have a situation like this, be sure and get enough officers that can bear the weight safely, and then that failing, call for the ambulance and make sure that with -- what -- with the combination of the officers and the ambulance this can be done. This will be in this new training bulletin.

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Ueland: I do ride-alongs with officers and I say, what would you do? And that's --

Kroeker: Lift with your legs.

Ueland: There you go. Number 7, we recommend a written protocol to deal with the issue of who's to investigate a senior officers so as to remove any appearance of conflict of interest when this situation arises. I've been on this group for about five or six years, and three or four times there have been cases where senior officers, captain or above, was involved -- was investigated or a senior civil service person with about the same ranking, and again, the appearance -- it's done within the bureau, within iad, and the appearance, anyway, and the way they come out too, people aren't happy. It just seems like a very small group of people who are investigating themselves. And I guess we would just ask if you would consider sending those investigations out to another agency. Could be the city attorney's office or the district attorney's office, but if you have a group of -- how many captains are there, ten or 12? They've all been together for 20 years, and they have to -- something happens, they basically have to have somebody of their rank investigating, the appearance and the outcomes too have been very bad in some of these. So I just ask that you would -- we ask that you would consider that.

Kroeker: Yes.

Ueland: Maybe it's not the best idea. We look at other bureaus, the sheriff doesn't -- when he has a senior officer, sends it out to another bureau to have it investigated. And i'm not saying you have to do it the way the sheriff does it.

Katz: Okay.

Ueland: You can remember some of those cases. I'm not going to mention names here. We recommend a written protocol for precinct commanders, clearly stating our investigations should be conducted and by whom. From time to time we get an investigation coming from -- many of the investigations by the way for benefit of anybody who's listening and the council, iad can't begin to do all of the investigations, or all the complaints that come in. Based on the adjustment of the iad commanders, many of them are sent out to the precinct to be investigated by basically the commander there, and he assigns somebody within the precinct to write the investigation, to do the investigation. Precinct commander signs off on it, and it does come back through iad and they look at that too. So when a letter is received by the complainant from the iad commander, or from the precinct commander, they can be assured that iad did supervise and monitor it, it was not just sent out to a precinct to be investigated by the person's own people within that precinct. But the problem arises when a person who is involved in the incident, it's always a sergeant who does the investigation, by the way, when a sergeant who is involved in the incident also winds up doing the investigation. And again, it's appearances. It's not that we suspect that the investigation was -- didn't come out correctly, but I tell you that a citizen looking at that has to think twice and wonder, how can that be? If the sergeant was involved in the incident, how can he also investigate it and write the report? And -- i've had officers, sergeants tell me, I -- if I were involved i'd just tell the lieutenant, you know, the shift commander that I can't do that investigation. I was involved in it. Sergeants tell me that. So I would hope that that whole attitude from the top to the bottom would sink into the consciousness to the people in the bureau so they couldn't get -- they don't just sort of stumble into this and do it, and afterwards we call it. We see it, we read it and we say, how could that have happened? Why would they do it that way? And you have very --

Kroeker: This is on a substantial number of cases you're reviewing?

Ueland: Again, we don't know. We audit as many cases as we can, and of course those were the complainant appeals the decision, we really have to take a hard look at and then we investigate as many closed cases where they're not appealed as is possible. And in reading some of those, and I

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guess you can only say, well, if it happens even once in a year, isn't there some flaw in the thinking of --

Kroeker: There is. The standard I have to say that the standard procedure here as common accepted practice in police work and certainly in our organization, is that if you have a percipient witness or if you have someone who is involved in the incident, him or herself, this person is not going to be the one doing the investigation. Obviously you have a built-in bias. So that's just not what we do. So I was asking you if this is coming up or happening.

Ueland: We can cite you the case.

Kroeker: I'd be happy to take a look at that.

Ueland: Sure. Number 9, we request that the chief address reasons that mediation is no longer happening.

Katz: It's a budget issue.

Kroeker: It is, but it's been recommended by the blue ribbon panel.

Katz: To do that.

Kroeker: Also as a good approach to situations where -- under certain criteria that brings things to eye-to-eye discussion between a complainant and a police officer. We think this is a good idea, but to -- budgetarily under the way hit been done before with a contract approach and with a service provider, this became a little bit pricey for us. And so how to respond to the blue ribbon panel now in a way that doesn't produce a high price tag for us is going to be the key. Maybe there's a way.

Katz: You're right, chief. Also, it -- we came very -- it became very complicated in the old way. I think the blue ribbon panel recommended that it be simplified.

Kroeker: It did. And -- it has a very specific method in there that is a low-level and -- an approach to sign off by all parties and then the manner in which to do that, it's in the text of the report that looks actually like good common sense.

Ueland: Well, I --

Katz: Thank you.

Ueland: I guess at this stage of the game we could request whether or not the council has any firm -- wants to push the idea of mediation or do you just want to say, flip -- too much money and let's bag it?

Hales: The subject is going to get covered in the larger question of what performs we'll consider and adopt within the whole piii system. I understand the budget issue when it comes to adding a layer of contracted mediation on top of whatever we now have, but common sense tells us, and I think you agree, chief, that mediation costs a lot less in terms of person hours than the system we now have if we could figure out a way to do more mediation.

Kroeker: Right. And it's much more rapid. In other words, you can do this quickly and resolve the moment before that moment becomes stale.

Katz: As we were doing this, this council has not had a work session on the overrepresentation that we have at the local public safety council or the racial profiling. And maybe we need to set something up for the council and bring the Portland state university consultant who did the -- I think it was psu, overrepresentation and then the -- where you are at the point that you're ready on the racial profiling.

Kroeker: We can do that. And of course this effort goes on with the local public safety coordinating council. A meeting with their overrepresentation committee that will be meeting tomorrow night in a series of meetings, i'll be attending that one. So along the way may be a good time to bring a convergence of both the blue ribbon panel and its work and that work together with a presentation for you and the members of the council.

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Katz: The council and then i'm sure the county commissioner was want to do that too. We have not had it here, you and I are on the task force, but -- and on the local public improvement -- public safety improvement safety council. But -- okay.

Ueland: Thank you for your attention, and thanks to the chief.

Katz: Chief, thank you for taking time.

Ueland: Advisors would ask that you approve the document.

Katz: Yes, we will.

Francesconi: I had one other question. You don't have the report, but there's some numbers in the back that show where the complaints have come from, from what precincts. Could you show him that for a minute, bob? And one of the things i've been impressed with you, chief, you're trying to use statistics in order to gather s. There a problem, and then trying to focus on it. From one year it has a range of areas, and you probably -- I suspect there's not enough information in these statistics, but I wanted you to look at it. It shows that north precinct only had 8% of the complaints, southeast 13%, and then the others are pretty evenly balanced. The other statistics that jumped out was the hispanic complaints are only 2%. Either we're doing a really good job in that area, or the hispanic latino group doesn't know how to access piiiac. I don't know which of those conclusions. But is there anything -- I know you're just looking at this cold -- does anything jump out at you, especially on the bureau assignments?

Kroeker: Yes, and I have to tell you we're not looking at this cold. We have had this data and the types of allegations and their dispositions in several discussions with our managers, looking at the data, analyzing, asking the various questions about this precinct and that and what can be done. One of the things that is hidden in the data of course is that -- for example, when you compare precincts, the number of police officers who are assigned to each precinct, if you were to do that per officer, then the numbers would look very different. Because at north, for example, it's a small -- much smaller precinct and it very well may be. If you look at the numbers, the officer complaint numbers are higher in the north. It's deceptive to look at it in the raw figures. This is the work we do as we look at these, and then in our look, then, in our performance evaluation, which we're, as you know, developing a system for performance evaluation, we intend to hold -- it seems like a cliché to say this term, holding commanders accountable for that type of thing that occurs in their area, and for the forward momentum in the outcome of reducing the complaint which we would hope to think would thereby increase the public service in the area of courtesy since about 60% of these pertain to courtesy in some measure. So this is the kind of work we have been doing. The numbers are not a surprise to me. We've had several discussions. I briefed the mayor on one occasion, I think it was back in may, on a survey we had done and where we're going on this.

Francesconi: Is that system already in place where you're holding the precinct commanders accountable for the number of complaints in their precincts, or are you in the process --

Kroeker: By all means, we look at this, we count it and we ask the question as to why, what is being done, what are they doing about the numbers, why is your precinct having a larger number than this other one per officer, for example. And why -- what is this precinct doing that has such a low number, is there -- are there some techniques, some approaches to the community, for example, that can be studied by the other commanders, and is there some information sharing that we should do --

Katz: Which shift it occurs in --

Francesconi: This is terrific news. I think maybe what I would like, if possible, at the next reporting, maybe the next quarterly reporting, maybe you could get together with piiiac ahead of time and give us some kind of presentation on this.

Kroeker: Sure.

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Francesconi: At the same time. That information is more useful than the piii statistics.

Kroeker: I'd be happy to. Data is data. Analysis is analysis. And without the analysis, you just have raw numbers. Supply us this information, then take from that the action steps for improving the system. Without that, it's just information.

Katz: And that's what you have to be careful of on the overrepresentation, and on the racial profiling, because when we look at the overrepresentation, bob, you said the percent of arrests, but if you look at the report, it's consistent to sentencing. So it isn't that it's high here and then it drops off as you go through the criminal justice system, it basically stays steady. There are slight spikes, so you have to ask the question at every point of the criminal justice system, what can you do.

Kroeker: That's true. And as you look at the data, you have to ask yourself, what assumptions are we putting below the data to extract it, and from that, what is appropriate to conclude? And if we are concluding that, for example, in the discussion about overrepresentation, since there's overrepresentation in the arrest numbers, that we need more diversity training, that's a conclusion that you'd have to follow a natural track to make sure that that's the case. We believe we need diversity training just because it's right to do. We should understand our communities. But to say that if we increased our diversity training we would decrease the number of overrepresentation is pretty difficult to conclude.

Katz: Not necessarily the case. Especially if it's consistent throughout the criminal justice system.

Kroeker: And we're struggling with this, as you know, in this discussion and the overrepresentation committee of the local public safety coordinating council.

Sten: Chief, one question. I think we want to get to the cases. What's the analysis of why there were so dramatically more complaints in 2002 than 1999? -- 2000 than in 1999?

Kroeker: You will track that in the year 2000, our officer initial waited activities went up. Our calls for service went down. Our crime also went down. So the officers now were engaging more, our citations, for example, went to an all-time high, as you'll see in the strategic plan presentation, an all-time high of I think 70,000 from about 31,000 five years ago. So with this huge increase in contacting the public, there's going to be some percentage in there where there's going to be dissatisfaction in this contact. We would like to think that you could increase your enforcement dramatically and at the same time do this in a courteous way that you would be able to control this. So this is -- that's one of the looks and the expectations as -- when you're going to increase public contact, you're going to increase a certain number of the people who are not satisfied with the police approach. And so this is going to happen. So that's one of the discussions.

Sten: Okay.

Katz: Further questions? Thank you. Thank you, chief.

Ford: Before we leave, mayor, might I just add, on behalf of -- hang tight for me, bob. On behalf of the rest of the committee, there are a few of us here beside bob and i. I want to applaud the efforts by bob. He has been chairperson of this committee most of the five or six years he's been here. Not only -- we have relied on the quality reports to be done by bob and a few others, and we review them and pass them on. Certainly it's been outstanding. We can't say enough about those other 12 citizens who have worked diligently in the last year, last five years, to make piii what it is today. We take extreme pride in what we've done. Regardless. It's been a turbulent year this past year, but we've hung in there because we believe in the city in which we live. We want the police department to be the very best it can be, because of that we are still here. We -- you heard earlier that the auditor and his staff is leaving tomorrow morning going on a mission to look at other cities. We have had input from other cities. We know what some of them are doing. We take pride in what we have done. We have ranked number 2 in the nation as an oversight. I want to congratulate the city of Portland for even having an oversight -- oversight. We will continue to

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have an oversight committee. As chairperson for the seventh year, not chairperson, a member for the 7th year, chairperson for the last three, it's been a difficult chore. I've been part of advisory committees on many issues, but this is one that I will remember for the rest of my life. Thank you, the council, for having spent time with us.

Katz: Thank you, Charles. Would the rest of the citizens please stand up so we can recognize you? Come on, I know who you are. Thank you very much for the work. It has not been an easy year for all of you. It hasn't been an easy year for many of us either. Thank you, chief. All right. Does anybody else want to testify on the report? Dan, why don't you come on up.

Dan Handelman, Portland Cop Watch, PO Box 42456, 97242: Good evening. My name is Dan Handelman, I'm on cop watch. Our address is P.O. Box 2456, Portland. I'm glad that you were able to take time in the evening to have this report. I'm sorry there's not more people from the general public here to hear it. I think -- as Mr. Ford said, it's good to have a form of oversight, but the mayor's work group report is still out there, and the auditor said he's going to go to other cities and talk to citizen representatives, and I think that's very important to hear what other cities think about it, and not just hear from the police and the staff people in some of those cities. The two key things in this report that point to why independent investigations would be very important for a system of police oversight, Mr. Ulrand referred to. When senior officers are being investigated, it's a confusing protocol about how to do the investigation, so there's no appearance of conflict of interest. You would avoid that completely if you had citizens doing the investigations. Similarly, with the assigning of cases to precinct commanders who work with the people on the streets and are sometimes present at these incidents, if you had independent investigators there would never be that appearance. He also spoke about how the length of time that these cases take, how the appearance to the general public is very important, and it appears to the general public when they hand over their case to police that the police are covering up for each other. Even if that's not true, that's the appearance. If you want to avoid that appearance, we think you should have independent investigations. In terms of the money for mediation, I do hope you're able to find that. I've been through mediation twice, I think you know that, Mayor Katz. I think it's really great for people to go face-to-face and talk out issues and hopefully they'll change the behavior of the police officers. I hope that what we're not talking about is money coming from the police bureau budget, because that would be the same appearance that there's some kind of bias if it's police bureau money being used for mediation. It should be just that the mediation center gets more funding. And I think there's projects like horse barns and stuff like that that are getting millions of dollars in funding of police review board with mediation and independent investigators can get that kind of money too.

Katz: That was on the edge.

Handelman: Well, quite frankly, a lot of my friends have been stepped on by horses and I think they're tired of it. I just wanted to point out to Commissioner Francesconi that you were talking about the PIIAC numbers, the back of the report. Those are the raw numbers from internal affairs. I too would like to see the PIIAC reports have more charts and tables with the depth of analysis that we heard from the chief tonight. I also would like to see them have a chart. A lot of the issues they brought up were in the last quarter monitoring report and some have been going on for years. It would be great to have a table showing when this first came up and whether it's been addressed and how it's been addressed. Finally, I brought this up at the PIIAC meeting and I got I think misinterpreted. I think it's really great that Chief Kroeker came here tonight to answer your questions and participated. The citizens work very hard to try to find out what's going on wrong within the bureau, and I think this is their right. And they have very rare occasions to be able to speak to you. I would hope that we would be able to hear from them in whole before the chief is asked to respond, and that the chief and the police bureau not be allowed to dominate the process.

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here when it's the citizens who are looking at the work. And I guess I got misinterpreted again. But I just think it's really important that this internal affairs has been taking more and more time at the meetings of the citizen advisors to say what their opinion is about the whole process, and I think that's inappropriate too. I think we just have to keep that in mind. Also, in terms of the extra five people who have been moved into internal affairs, I hope we're looking at that as an interim solution. That got instituted while the mayor's work group was looking at the changes to the whole system and just because that might resolve some of the timeliness problems, I don't think it will be an answer to everything. I hope you'll consider all the proposals on the table.

Katz: Thank you. Dan? Anybody else on the report? Come on up.

Pat Dinan: My name is pat dinan. I've looked at the report and I questioned the number 3 area where it says I strongly urge the police bureau to act quickly and supply the public records accessibility. I have been trying for three years to get a simple copy of a restraining order or an exclusionary trespass, and I have had nothing but total roadblocks. I understand that prior to this you had in the last year, where are they -- where are we in getting the trespass exclusion written order clarified? I don't see any response here of what's going on in that area. Today I was going to present to you at city council the reply that captain smith gave to the letter I requested from you, and this man I believe -- he's in charge of the iad, and in investigating the thing -- this -- they make this community partner very concerned with his capacities. This individual is in charge here, yet in your letter I asked for in the re, production of a lawful trespass or exclusion order claim -- on or about may 2nd. His reply to you doesn't mention may 2nd, it mentions may tends. Now, if we're going to have this type of person leading an operation, are we going to get any of these done? Because you get down here and you want a protocol on assignments. How many times does a citizen have to get information? What are you going to do about that? I'm really concerned with the leadership of the iad. This individual has stone walled this community partner's attempt. He has not told you the truth at a meeting, it's on video, he has mislead the piii. What are we going to do as far as if we're going to have these things, is the leadership right there? I don't see anything -- see anything about the leadership in making sure that it's done. And as far as written protocol, which are we going to see that? Are there guidelines that are going to be set by the council so we'll know as citizens? That's a question to you, mayor.

Katz: I'll answer those after the meeting.

Dinan: After the meeting? Okay. I will bring this to you, but this directly shows that if he is the leader of the iad, he should be able to get the question down. And if he can't get it down, then there better be some answers as to why he can't do it.

Katz: I think that I -- i've responded to you, but I --

Dinan: I have not received --

Katz: I'll talk --

Dinan: We have communicated. Mayor, you have not in three years.

Katz: Don't raise your voice.

Dinan: Nobody in this city has provided this information. It is not there. Captain smith -- have captain smith come up right now and tell him tell you that there is an exclusion or a trespass lawful order. I challenge you to do that. Because he can't. Unless he wants to violate general orders 310.50.

Katz: Okay. Anybody else? Come on up. Three minutes.

*****: I want to speak to chief kroeker's.

Katz: Identify yourself.

Richard Koenig, Buckman Neighborhood: Richard koenig, from buckman neighborhood. I want to speak to chief kroeker's comments that we're going to avoid conflicts of interest. We just

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don't do this as a police bureau. We don't investigate ourselves. You folks have heard the story about how captain smith declined to investigate himself for lying. In regard to my associate's exclusion -- alleged mysterious exclusion, let's say. It does happen. This makes a joke of everything that chief kroeker said. It makes a joke of what you're doing up there. Let's get real. The corruption is rampant. This is an unreal process. You guys are kidding everybody. I'm ready to now go ahead and have the citizen advisors rule that captain smith did everything right by being -- that was the motion before the citizen advisors, was to find that captain smith was completely within his appropriate duty by failing to investigate himself. Declining to investigate himself. So i'm ready to have them go ahead and vote on that now instead of educating them for the next year or so. And then i'll bring it to you, because you just heard chief kroeker say we don't do that. And i'll run the video back for you where he said that. So you can set me up, put me back on the agenda, dr. Hess. Thanks.

Katz: My --

Diane Lane: My name is diane lane. I just wanted to point out on the statistics page of the report that part of the reason there's bigger numbers in the 2000 year category is that there's two extra categories added this year. They resolved in parentheses, administrative, and also the service complaints. Those are two new items this year. Those are pretty big numbers in that area. And also, out of the 929 not only were there two new categories of 147 for one, 101 for the other, 300 of the allegations were declined for investigation, 56 were just inquiries, 186 were suspended investigations, and so that totals up to about 790 that did not receive full investigation. That left about 139 fully investigated cases for 2000. That's all i'm saying.

Katz: Thank you. All right. Anybody else? Let's -- i'll take a motion to accept the report.

Hales: So moved.

Francesconi: Second.

Katz: Roll call.

Francesconi: This is one of the best quarterly reports i've been part of. And i've said, and i'll say it again, we need to strengthen the system, and there's different ways to do it. I think some of the things that dan said in terms of the investigatory process involving other police agencies, which is actually that bob suggested, improving the timeliness are three things that have to be addressed to strengthen this. But I also think we witnessed something tonight that the system is working in some areas. I think bob you did a particularly effective job. I appreciate Hales' comment. You were pretty assertive on some issues over time that needed to be addressed. And so we had citizens, you know, who have been with the bureau addressing some things, and then getting a response from a responsive chief who's trying to deal with these things. And that's good. I mean, it needs to be improved, and strengthened, but there's some good things that are happening because the citizens are monitoring this over time. I do believe that good management is the key. It's even more important -- it's very important, and so looking at the numbers, getting a system in place where you hold precinct commanders accountable, piiac should work with the chief on what he's done to make sure that you have comfort in this, and this is a good thing. So we're making some progress. We have more to do, but I guess I want to say, I appreciate what you've done, I appreciate the changes that the mayor made getting there. We need to do more. Because this is so important on the issue of police oversight and accountability, and there's more that we can do. So, bob, one suggestion to you, and to the piiac as you look over time, the chief said several times, is this a trend. So I think it's really important to look back, because, you know, one case, it's true, we should look at. But it's more important if there are trends. Because then it really gets the system's attention. So looking over time for trends is something that's really critical, I think. I mentioned the appearance of impropriety, that we have to deal with with that in the investigatory process in

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some cases, at least. And I guess the last thing, it's not directly on point, but we've talked a lot about overrepresentation tonight, and I appreciate, mayor, that you're bringing the racial profiling task force together with the criminal justice side. I do think, though, if we're going to get overrepresentation, I came from a meeting tonight of some youth providers and gang providers, and the truth is that all three high-risk gang residential programs were -- where we're trying to treat high-risk youth are now out of existence. So when we're talking about overrepresentation, we have to be talking at a brief-ed up provision for high-risk youth that I am afraid are slipping through the cracks here. I just wanted to add that editorial comment. But this is a good thing we're doing. We can do better. Aye.

Hales: One follow-up, is the chief still here?

Katz: No.

Hales: He dealt quickly with the statistics in front of us, and i'd like a little more analysis of those to have use of force complaints go up from 118 in 1999 to 217 in 2000, I want to deal -- I don't want to deal this quickly with that kind of a change. Regardless of how many more police officers were in the field doing whatever, each one of those was a real incident where somebody complained about the use of force. I'd like some more review of that particular record within those statistics. So that one request. Then just a comment, aside from whatever we do to perform or improve this system, I continue to be amazed at what people will volunteer for around here, and the fact that we had these citizen volunteers to take on a very unglamorous and difficult piece of volunteer work is just one more great thing about Portland. So thank you. Aye.

Sten: I want to join in the thanks. I think all the discussions that are going on about what the system should be are really about the system, and whether structurally there are things that need to be changed to make the work you're trying to do more effective, but I think there will always have to be citizen advisors and I think you're exemplary in trying to pull this off. I'm in concurrence with all of your recommendations that you made, and would on the record ask the chief to respond to those in the way that you have. This profanity issue we should err on the side of banning profanity. The other piece I would ask, and I don't know your work plan for the next quarter, so I started to ask a question, did ask one question and sort of held up realizing there's cases we need to hear tonight and i'm not sure speculating on these numbers is ultimately all that helpful, particularly on television when people -- but I would like to ask the advisor to take a good look at the 2000-1999 statistics and ask what questions you think are appropriate, because there are some big jumps. We've gone from 643 complaints to 1300. It's over doubled. We've got 929 that were investigated and only seven were sustained. Those might be good things or they might be bad things. I was not able to add up numbers as faa as diane did there, but I think there's some questions. I don't really understand what suspended resolved and service complaint means of the new categories. I think it would be well worth a little bit of digging in into -- into what happened. It's quite possible there's more activity and it's good things, but it's also quite possible there's some trends that need to be looked at. I think it would be great to talk about those numbers at an upcoming quarterly report. Thanks again, and aye.

Katz: I too want to join with everybody and -- and thank especially the citizens advisors. I used to go often to the committee. I don't anymore, and i'll tell you why. It's painful. And so I know what you're going through. And i'll be back. I'll pop in occasionally and come back and listen to you. But I know the kind of hard work that's in front of you, and the difficulty in getting to the core of the issues. And commissioner Sten -- Sten is right, there will always be advisors. Regardless of what kind of system we have. And hopefully you'll continue doing the work that you're doing. I hope you've all gone through training, and go to citizens academy, and get the training that you all are -- have been asking for. Because I think that's really very important. We'll break out these

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numbers for you, especially the use of force. I have my own theories why those numbers are going up. But I won't bore you with that right now. I'd like to see the break-out of those numbers as well, and as I said, I think it's important for the council to understand the work that's been done on overrepresentation and where we're going on the racial profiling. Because you need to be relatively sophisticated in the analysis of the data as you see it. And I hope also the advisors will join us when we get briefed on that. Aye. Okay. So you want to take --

*****: I don't think the first appellant is here.

Katz: Let's take it in order. 210.

Item 210.

Katz: The appellant is not -- is the appellant here? No. If it's -- he's not, we're going to move on. All right. [no audio] I'll take a motion to -- why don't you give the council the recommendation of the advisors.

Hess: This was a traffic stop, a complaint based on a traffic stop. It was settled in court. And so iad declined to investigate this case, and the piii advisors unanimously upheld that declination.

Katz: And the appellant was found guilty in court?

Hess: Yes, he was.

Hales: Move to uphold the advisors recommendation.

Francesconi: Second.

Francesconi: Aye. **Hales:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. All right. 211.

Item 211.

Katz: Okay.

Hess: Again, my name is mike hess, the police internal investigations examiner. I would like the appellant to come up here with me.

Katz: Come on up.

Hess: Mr. Watson. You can sit here. Okay. Mr. Watson, would you identify yourself?

Karl Watson: I'm karl watson.

Katz: Okay. You'll get a chance after Dr. Hess makes the report.

Watson: Thank you.

Hess: Okay. I am presenting this report on behalf of one of our citizen advisors. Les frank, who made this report couldn't be here tonight. Let me similar rise the complaint was filed by the appellant on june 9th, 1998. And the complaint was closed on may 4th, 2000. This was categorized as disparate treatment and the finding was insufficient evidence. The -- this incident occurred on april 12th, 1998, at approximately 11:45 p.m. The appellant was driving a corvette on northeast 99th. He stopped for a red light at northeast glisan, next to a Portland police bureau car located by a lone officer. The officer looked over at him and made eye contact. Upon the light turning green, the appellant continued eastbound on i-84 and exited at northeast 122nd street, at which time he was stopped by the officer who had been following him. The officer cited him for making a lane change without signaling, exceeding the urban speed limit, and for failure to carry valid proof of insurance. The allegations of the appellant are that the officer followed and stopped him because he was a black man driving a corvette, and his suspicions were confirmed by the officer's failure to appear against him in court. I will not review the appellant's interview, because it's -- it summarizes what I already said, and you've already read that. And also the summary of the officer. The officer was interviewed so long after the incident, I think it was almost two years later, he couldn't even remember the traffic stop. So there was not much that could be gotten out of the interview with the officer. But the appellant did state in his interview that he felt that the reason he was stopped was followed and subsequently stopped was because he was a black male driving a

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corvette. The analysis of this was first of all that this was adequately categorized as disparate treatment and the iad investigator obtained all relevant documentation from the courts, dmv, Portland police bureau records, et cetera. And as it turned out, it was shown by the court records that the reason that the officer did not appear in court was because he had two cases at the same time in a different court. And he tried to get the court in gresham to postpone mr. Watson's case, and they were not able to do that. So the officer was not able to appear. And that was confirmed by court records. The only thing that we found on this case that was something that we thought was insufficient or deficient was the length of time that it took to do this. Everything else on the case was done correctly. The letter of disposition by captain smith was written very clearly, and we didn't find any other problems with the complaint. And our citizen advisors voted to affirm the finding of insufficient evidence and two advisors voted in the minority not to affirm. And those two people are here today too.

Katz: Okay.

Hess: I'll let mr. Watson --

Sten: What was their position?

Hess: To not affirm the finding.

Sten: Did they have a --

Hess: We did not have another proposal because it passed. It passed to affirm the finding. So we didn't have another motion. But they voted not to approve.

Sten: And can I ask a couple factual questions? After he stopped on 99th and glisan, he went -- continued down 19th and got on the freeway? Is that -- 99th and got on the freeway? Is that right?

Hess: I believe so. I only have what's on here, what i'm reading from. And I can't recall exactly what his --

Sten: And the traffic ticket was issued for speeding after he pulled up right next to the officer?

Hess: Right. The officer trailed him for some time and he can probably explain it better than I can. But it was after he had -- the officer stopped and looked at him and then somehow got behind him and trailed him for a while.

Sten: Is the urban speed limit mean the same thing as the posted speed limit?

Hess: I think that would be a question for captain smith that i'd rather have him --

Sten: The citation said he exceeded the urban speed limit. Does the citation state what the speed limit on that street was and what speed he was going?

Hess: I don't know the answer to that question. I would defer that question to the police.

Sten: I'll ask captain smith.

Katz: Sir, why don't you explain to us your version of the story.

Watson: I was -- it was basically what he said. I was entering the freeway on glisan, I was in the lane going to the dalles, the officer was in the lane coming to Portland. And it was probably 11:30. We made eye contact, and I nodded my head at him, like hi, and he just stared at me. I turned my head and he just, like, gave me a stare-down. Light turned green, so I took off, going about 40. He shifted in back of me and just followed me from 99 to 122nd. All the way.

Sten: You were on the freeway from the minute he followed you? That's the on ramp on 99th and glisan?

Watson: Right.

Hales: All this happened on the freeway.

Watson: On the freeway. He followed me all the way. As soon as I got off on 122nd, I had the -- there's a light right there. The light was green, I turned. As soon as he turned, he turned his lights on and stopped me at the -- down the hill. Pulled me over. And asked me some questions. That's about it.

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Katz: And what -- I read the report. You were asked why you believed that the officer topped you -- stopped you and the report says the officer just acted pig-head and prejudice. Could you explain that?

Watson: Well, I asked him what was the reason, and he just said, just give me your -- show me your license. Right then i'm like, okay, you know. To me he was being a jerk. I was asking him a question. What was the reason?

Katz: And so you were expecting -- I don't want to put words in your mouth. You were expecting a reason as to why you were stopped as opposed to -- as opposed to show me your license.

Watson: Exactly.

Katz: All right.

Francesconi: Did you ever change lanes on the freeway? Were you in the same --

Watson: I did change lanes.

Francesconi: On the freeway?

Watson: Did i.

Francesconi: Do you remember --

Watson: I knew he was there.

Francesconi: That thought crossed my mind too. I knew he was there.

Francesconi: Were you also watching your speedometer because you knew he was there?

Watson: I was. As soon as he switched lanes to get behind me I knew something was up then. So I didn't pass 55, and I used my flashers. I only changed lanes once.

Katz: Let me ask you a question, do you have a dmV record of any kind that might have raised some suspicion? Because usually -- not usually, but at times they run the license plate number. Do you have anything in your record with regard to that?

Watson: Not on my car.

Katz: Not on your car?

Watson: Right.

Katz: But --

Watson: Would he raise a record on my car, my license plate?

Katz: Your license plate. That was clean?

Watson: Right.

Sten: Did you have valid proof of insurance in the car?

Watson: Yeah.

Sten: It was that the first thing you showed him was expired. And you went to the glove compartment and found --

Watson: Right.

Sten: And you were wrote up anyway for failing to provide valid proof of insurance?

Watson: Right.

Katz: Let me ask a question. Somebody needs to help me, because I don't drive. But when you -- he runs the license number in -- into the computer, would it show that there is no insurance?

Watson: No, it doesn't.

Katz: I didn't think so.

Hess: It shows the registered owner, but it doesn't show insurance. That much I do know as a police officer in hillsboro.

Katz: Okay. But the officer didn't say anything, and was just kind of -- you perceived it as being negative.

Watson: Yeah. It was being negative. As I seen it.

Katz: As you saw it. All right.

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Sten: And you said were you going about 40 miles an hour?

Watson: When I took off and got on the freeway.

Hales: Down the ramp?

Watson: Right.

Katz: Further questions?

Hess: Captain smith is here if you have any questions.

Katz: Captain smith?

Hess: If you wanted to question the minority people, they're here too.

Katz: If we're going to do it, we're going to question both. Okay. Thank you, mr. Watson. Did you want to add anything, captain?

Bret Smith, Captain, Bureau of Police: I don't want to be redundant and repeat. I think I can answer questions if you have something specific, but I think the facts of the case were presented pretty well. The information here about getting a citation when he -- for insurance, lack of insurance after he produced supposedly some valid insurance is not part of my original complaint. Again, the officer made every attempt to show up for court, he called, tried to have it reset four days prior to the court date but had a conflict with three other cases down here. The -- there's a lot of assumptions made by the complainant. That -- he made statements that the officer got behind him when he believed it was the officer's intent to drive downtown. I mean, I don't know how -- what -- how one would know what the officer's intent was, to drive downtown. So there's a lot of assumptions here that I think that add to his perception. He says he looked over at the officer, the officer glared at him. I guess we have to believe the officer acknowledged that there was a recognition there. The officer does not remember this incident. So we don't have his statement to really contradict or to add to the investigation in any way.

Katz: Questions of captain smith?

Hales: Let's go back to the one the mayor asked. What's the urban speed limit?

Smith: It does fluctuate. In residential you could have a 25 mile-an-hour zone, at different times in urban areas you have 30 to 40 mile-an-hour changes in the speed and it's a posted speed type of a situation.

Hales: What's the urban speed limit on an interstate highway?

Smith: I don't know that I know what that --

Hales: It's 55.

Smith: That's the posted speed.

Hales: Is there a different speed other than the posted speed?

Smith: There is some speed variations. You have a posted speed, I think, or the residential between -- would be 25.

Sten: Did the citation list how fast he was going?

Smith: 35 to 45 miles an hour exceeding the max.

Sten: It says he was going 45 in the -- and the max was 35?

Smith: Well, i'm telling you what the citation says.

Sten: I'm asking you what it says. I'm not understanding what you're saying. It said he was going 45 in a 35?

Smith: That would be my understanding there. Would be a 10 mile over the speed limit, or the urban speed over the max.

Hales: Do we have a copy of the citation?

Smith: I do not. I do, excuse me.

Sten: Can we see that?

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Hales: As a driver, this is a new one on me. I thought the posted speed was the posted speed. It's more complicated than I thought.

Smith: The problem I have on this particular investigation is the officer, I don't know exactly where it was the violation --

Katz: Where it occurred, whether --

Smith: In this particular case we would have a pace situation, would be my explanation, because the officer is driving a car, he's following a car, and -- and radar would not have been used. There would have been a pace situation is the only way I could understand, and that would take place over a period of time and a period of distance on this particular violation here.

Francesconi: Can you explain that again? A pace situation?

Smith: Pace. My understand assisting they were originally at 99 and glisan, they eventually got on the freeway, i-205, eventually to i-84 to 122nd. So sometime during this period of time there was exceeding a max, I don't know when that would have been, because the officer doesn't recall when that would have been --

Hales: Can we pursue that? This much time and this little evidence we're not going to be able to reconstruct the incident, as shall usual, in these cases. If an officer was following somebody down a city street and they were exceeding the maximum speed on that city street, by what possible scenario would they follow them onto an interstate highway, drive for three miles, get off, make a turn, and then stop the driver for exceeding the speed on the original city street?

Sten: This is -- captain smith, what's begging -- bugging me and i'm not sure -- there's a discrepancy in the facts -- 99 and glisan is a freeway onramp.

Smith: They were stopped at 99 and glisan at a light. I think -- [talking at once]

Smith: We're not having a prior violation, but after that stop light, sometime while they're on the freeway, there is violations committed. They include the exceeding the max --

Hales: Let's keep it simple. How could you exceed the maximum speed limit on a freeway onramp when it's not posted and you just supposed to follow the basic rule? I have never heard of this regulation.

Smith: I don't think I ever said you exceeded the max at an onramp.

Sten: I thought you said -- I thought you said that it was going 45 in a 35 zone. So the judgment the officer made is that -- i'm just trying to understand -- is that admitted night when I -- odds are there wasn't a lot of traffic, the reasonable speed to be going on a freeway onramp is 35, and that would strike me as close to dangerous to go that slow on a freeway onramp.

Smith: I don't know that the violation occurred there at that location.

Hales: Okay, but let's follow one logical train or another. Either he was -- the officer cited him for going 45 on an onramp, right, that's one possible scenario. We're not going to be able to reconstruct this, but we can -- one possibility is he cited him because he was going too fast on the onramp, thus the 45, 35 thing. I think that's questionable. Or he cited him because he saw him going 45 earlier on a city street where he should have been going 35. Thus my question, which I don't think you can answer, because I don't think anybody can answer it, and that is, why on earth would you see somebody going 45 where they were supposed to be going 35 on a city street, follow them onto an interstate highway, drive for three miles, get off and then turn your lights on? That's ludicrous. That doesn't pass the common sense smell test.

Smith: Based on a set of facts -- you're putting assumptions together and we don't have that.

Hales: Of course we are, because we don't have any other information.

Smith: That's why we have an insufficient finding. We would not stop this gentleman on a freeway most likely in that particular area. I can understand a judgment of someone not wanting to do that at night. It's in a lot of freeway off ramps, exits, there's the airport, i-5 south, i-84, et cetera.

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You have -- there's a big bend over there in that part of i-84 to i-84 east from 205. He may have decided to make that stop where he resumed to be a safer location. I don't have a lot of that information. The officer cannot provide that information --

Katz: Hold on.

Sten: Procedurally, if the officer remembers nothing, is the assumption that the complainant is wrong? Is that the way you approach these? I'm a little troubled by -- his testimony, which is uncontroverted because the other person doesn't remember, is that this entire incident, he first saw the officer on essentially the onramp to the freeway. He was then pulled over as soon as he got off the freeway on 122nd. He's either not telling the truth or he was cited for going 45 on the freeway. And the fact that the officer can't remember it, then means that -- I can't see how you can construct another scenario other than to say he's not telling the truth on that.

Katz: Can -- hold it. I'd like -- just stay there. I'd like to invite one of the advisors, one who voted with the majority, one who voted with the minority.

Sten: I have more questions for captain smith.

Katz: Oh, all right. Go ahead.

Sten: Captain smith, I know this precedes you, but do you have a sense of why it took two years --

Smith: To do this particular case? This case was a year and a half old about the time I came there. I think --

Sten: I'm not blaming you --

Smith: I'm not -- that's not what i'm trying to say. I think based on backlogs, lack of replacement of iad personnel, dropping the immediate to do an urgent case, you know, critiquing this case, it got set back.

Sten: This -- an honest question, I don't know the answer, how -- is there any procedure for approaching this situation in which an officer says, I don't remember anything? Given that they do a lot of traffic stops and it's been two years, I don't find it outrageous on its face that somebody would say, I -- say I don't remember what happened. I remember absolutely nothing, you know, when somebody's made a complaint against me, I think officers are notified when a complaint has come in against them. Is that true?

Smith: That has not always been the case. It is now.

Sten: Would the officer have known in '98 that the complaint came in?

Smith: Possibly not.

Sten: I would be more convinced if it was, a little bit, but i'm hazy. The procedural question i'm asking, when is it acceptable to say I don't remember anything at all, and when does that raise questions in your mind as the person who is in this tough situation of having to look at this? Because to some extent if it's just the officer and the person, and it's acceptable to say I absolutely remember nothing, then you're guaranteed insufficient evidence under this scenario. How do you approach that?

Smith: I think to answer a couple of those, I believe the notification of the officer occurred after my arrival. This happened in '98, before I was there. And I don't believe that notification piece for the officer was in place. So when you say -- I say possibly because could it have happened, but I don't think that notification piece was in place. I personally know who this particular officer is, and this particular officer writes a lot of citations. It's part of his regular routine. Traffic is something that he does all the time. For him to come off the street daily without traffic citations would be something that would be not normal. So for him to say two years ago that I don't remember this incident, you know, I believe that's a very strong possibility.

Hales: Of course he doesn't remember it. I wouldn't remember it six months later. That's a lot. But that doesn't mean we don't have information in front of us that raises questions.

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Smith: All we have is the notes that the individual put on his citations. If it was a nonevent, there may not be anything in the notebook that would be significant for him to recall the facts of the case. In fact, we would have asked the officer that in our interview, to look in the notebook. And there was nothing in there that was significant about this particular stop that he thought it would be an issue, other than an everyday routine traffic stop that he could give us any information or detailed information about it.

Francesconi: I understand -- am I interrupting? I understand that, but the question is, the delay, the fault of the bureau, be it a different part of the bureau, should that work against the appellant? You create a system where if you delay it, it works to the disadvantage of the appellant or the officer. Now, the fact two years has gone by does hurt the officer. The timely -- I agree with that. And it doesn't concern me the slightest that the officer doesn't remember this two years later. But the problem is, it's the bureau that put the officer in that position, and should the claimant suffer, the appellant suffer from that?

Smith: I think the recommended finding that was made on this was also based on how the complainant was able to articulate why he was treated differently. Based on the information he gave, it was more of a perception issue of him. There was nothing said specifically. I can't give you a real specific about that citation and about the location where those were. I don't have those answers for you. I'm sorry, I can't fill those holes. But the officer made every attempt to go to court. We know that checking into this two years later that the officer intended to go to court, that he wanted to pursue the citation, that and wanted to do that because he notified the court coordinator four days prior to the court hearing and requested it to be set over and they wouldn't do it.

Sten: Have you that in writing?

Smith: It's in our investigative file, and that's been reviewed. When we looked at the evidence about what the officer's intent was, every indication is the officer did. And was going to show up in court and proceed with that hearing just like he would any other traffic citation. And so based on what the complainant said, as far as evidence issue, it's one-on-one, a perception issue. I can't answer some of those questions about citation, but we also have the officer intending to go to court and follow through with his lawful activity.

Hales: Another question, completely different subject. It says here in the report on page 3 that mediation was offered to the appellant, the appellant was receptive to that but since the complaint was later categorized as disparate treatment, mediation was not an option. Can you provide any more light on that?

Smith: Currently the way the general orders are, we are not allowed to mediate disparate treatment or use of force, even if that's what the complainant wants.

Hales: Okay. Another issue for the future.

Katz: And that was the point that I tried to make, that there were a lot of barriers in how and when you mediate that were worked through the bureau, the union and it became convoluted. So if we're going to do it again, we ought to remove as many of the barriers --

Smith: This particular case I think this would have been --

Katz: This would have been a beneficial one, I agree.

Smith: The perception here, in this particular case, that's not going to happen.

Francesconi: I think you said, officer -- sergeant that the preponderance of the evidence did not support disparate treatment. As I look at this, the appellant did not file this as disparate treatment. He filed a complaint alleging certain facts.

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Smith: That's a very good point. I'm glad you brought that out. His original complaint that was dated and received in our office on June 11th is not what he later talked to us in our interview about, about the disparate treatment piece.

Katz: Who categorized it --

Francesconi: The iad captain.

Smith: Correct, at that time, based on the second interview, the telephone interview that occurred later. On a follow-up with that letter. Because when happened is we received a letter -- the incident occurred April 12th. The appellant didn't make a complaint until approximately four weeks later. That -- he mailed a complaint in. At that time on July 7th a sergeant called back and was not able to make contact with anybody there and followed up with a letter on July 29th. Asking that he notify the sergeant so they could follow up with the investigation. The -- finally an interview took place and the intake sheet is dated as August 19th, I believe.

Francesconi: But was -- the facts were essentially the same, that he alleged. Because I don't think you've disagreed with the facts.

Smith: The fact in the letter states he was followed on 205. There was no mention of being at 99th and Glisan, there was no mention of that at all. What he says is he was being followed on I-205 and then I-84 eastbound to 122nd in his original written complaint to us. It's substantially different in that regard.

Katz: There's a lot --

Hales: It's a couple hundred feet. Come on.

Smith: I'm just telling you -- it is different.

Hales: It's a three-mile drive. A couple hundred feet in a three-mile drive. The difference between 99th and Glisan and the onramp and the rest of the trip is the difference between a couple hundred feet and a three-mile drive. That's not a big variation in his story.

Smith: It's a variation in the story I think in the sense that at 99th and Glisan he says he stopped, got the glare and in his mind at that point in time there was disparate treatment or potential prejudice. Because the officer does a lane change.

Hales: I suspected he wouldn't have worried about the treatment or alleged treatment if he hadn't gotten pulled over and given \$300 worth of ticket violations. But that's speculation.

Francesconi: Do you have a different statement?

Katz: Do you have -- here's the problem that I have, ladies and gentlemen. This was a problem that I had when I wasn't here and you were dealing with a case. You don't have all the information.

Smith: I don't?

Katz: We don't. We don't have the original complaint.

Smith: Correct. Well, I assume you don't have the original complaint. What I have is my original complaint, is a written complaint, it's our complaint form that the Portland police bureau uses. This is the one we received when it came in. This is the one that's dated June 11th, I believe, in '98. -- in '98.

Katz: Okay.

Francesconi: Can we see it?

Katz: Why don't you come on up. You -- were you with the minority or the majority?

*****: Minority.

Katz: We also have somebody with the majority that was here? No. Okay. Go ahead. Identify yourself.

Denise Stone, Vice-Chairperson, PIIAC: My name is Denise Stone and I'm the current vice chair of PIIAC. I voted in the minority in this case because I felt that there were several reasons why this -- were why this could be an example of disparate treatment. I should say I know it's difficult to

proof of an allegation of disparate treatment because we can't read people's minds, but I think there were a lot of corroborating evidence that makes it look like it is a disparate treatment, and that's why I voted not to uphold the recommendation of insufficient evidence. And I should also say too that I travel this area a lot, almost every day, so I got a good sense of the area and how it happened. And I could say that the appellant -- also, this is information that I had gotten from the examination, so -- and we get that information from the examination from the file.

Katz: So you actually --

Stone: I didn't examine it, I got it from the -- I got the information from the report that the examiner, the same report that you folks have. And so -- and all this information comes from the file, so everything we have here, including that the appellant was on 99th, traveling onto the freeway, that's on the file. Otherwise we would not have known that. The appellant was in the lane that would take him to i-84 east. And the officer was in the lane that would take him to i-84 west. They're side by side. The appellant is to the left of the -- and the officer is to his right. They make eye contact with each other, and then they head through the light onto the freeway. One going east and one going west. Well, at that point -- at that point presumably about the time they made eye contact or at that point right when they're on the entrance to the freeways, each going in opposite directions, that officer had to have made the decision then and there to not go west but to go east. So he had to change his lane of traffic in order to do that. In order to follow the appellant. So some of the questions I had were, if the officer noted at that time that the appellant was driving in some way inappropriately, why didn't he stop then? Stop the appellant then? As opposed to traveling, you know, following him to 122nd. Again, if you're familiar with that area, you know there's a lot of construction, the road is being widened, there's a lot of room to pull somebody over. So I wasn't comfortable with the idea that there might not have been room. I know there is room. Additionally, I wondered why the officer followed the appellant from the entrance to the freeway -- as I said, and didn't stop him until he was at 122nd. That seems like a long time if the appellant had been breaking -- driving -- breaking a driving rule at that point, at 99th as opposed to at 122nd. There was some other things as well. I felt that the pressure and the demeanor of the appellant as he spoke to us was very credible. I felt that he voiced a sincerity when he asked -- when he said that he was willing to go through mediation, wasn't really his fault that because of the disparate treatment categorization that he wasn't able to. But I felt he exhibited a sense of sincerity when he did ask to do that. If you would -- if you haven't already, if you look at attachment see you'll see the history --

Katz: Bop, bop, bop.

Stone: There -- I think that also -- we have access to that information, and we have to use that information. And then I understand that the officer had made an attempt to be at the -- to be at the court hearing for this case. But because -- but he couldn't, and ultimately the case was dismissed. And so I just -- I felt there was a whole -- there were a lot of -- a lot of circumstances in this situation that pointed to not insufficient evidence, but to disparate treatment, and I do believe that when it is one person's word against another, I support insufficient evidence to its highest degree. But I think there's more than that here. And that's why I voted in that way.

Katz: What was the vote?

Stone: It was 6 yes to -- 6 yes and 2 no.

Katz: Is there anybody here from the -- that was on the majority? Were you?

Stone: I don't recall.

Francesconi: What did you want to have happen? What finding --

Stone: Well, I felt that the -- everything that I read in this case, I felt that it was a situation of disparate treatment.

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Francesconi: What finding?

Katz: Tell me what it was --

Stone: Would it have been sustained.

Katz: Because he --

Stone: Because of all the reasons that I just stated. I guess i'm not sure what your question is.

Katz: I guess --.

Stone: Let me just say that -- there's been some discussion of perception, and it isn't -- isn't that what this is all about? It's our perception of how we feel we're treated when we are -- when we have an encounter with a Portland police officer. That's his perception, that he was treated that way. And whether or not he verbalized the words are not, that's the way he -- that's the way he explained his feelings as to how he was treated, so therefore that's the way internal affairs categorized the complaint.

Katz: I don't want to get into a discussion with you about that, but i'm just thinking, i'm trying to translate this in into -- into the racial profiling information that we're going to be getting on traffic stops. And I think it has to be more than just the perception issue. There's got to be issues of why did you stop him and was it a real -- was it a real stop, and did you know who you were stopping. That's -- it's got to have a little bit more -- a little --

Sten: Are we in discussion informally here? I mean --

Katz: We've been discussing this --

Sten: I mean -- the problem i'm having is citing somebody for 35 on a freeway. It says to me that something is going on that doesn't make sense to me. And will the other problem i'm having is that I think it's hard to escape that there's insufficient evidence, but I don't think it's captain smith's fault, but the bureau's fault that there's insufficient evidence. And so mr. Watson's been put in a position that because the bureau didn't take this complaint on a serious and timely basis, it holds to any reasonable person's -- it's reasonable to think an officer would not remember a traffic stop two years later. But that's not mr. Watson's fault. So I -- that's what i'm struggling with. I think the circumstantial evidence says something was going on other than what the traffic ticket says. Because it just doesn't make sense that you're on the lane going west, you switch to the lane going east after seeing somebody, and then cite them for going 35 on a freeway. But I do buy the argument that you can't really know for sure if the guy doesn't remember, so this is -- i'm just speaking out loud to the council.

Katz: I was referencing --

Hales: I think you're right. You're innocent until you're proven guilty, so therefore our -- are officers when he conduct themselves in the community should have a reasonable cause to cite or arrest somebody and based on all the information we have, and it's not mr. Watson's fault we don't have more, I see no reason why this man was pulled over. This is a year in which probably three dozen Portlanders got killed and a couple hundred got injured by people operating motor vehicles in an unsafe way, this guy wasn't one of them. At least not that night. So the lack of evidence on our part doesn't cute an -- constitute an excuse for not finding this sustained.

Smith: I think your assumption, and the understanding where the citation took place isn't I think an appropriate justification to say he had no reason to stop him. We can articulate that -- this case to me asks -- it presents questions. That's the reason why it's insufficient evidence.

Hales: We can't go there. So our procedural failures result in a lack of information that we throw things out based on lack of evidence. That's --

Smith: I understand what you're saying.

Hales: That's the double jeopardy of a kind we can't excuse.

Smith: The evidence that the appellant was to -- wants to give is a perception issue.

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Hales: Right.

Sten: Let me ask you about that.

Smith: We don't -- when we do this, we're able to determine they're treated differently because of their race, or --

Hales: No, that's not what he alleged. He didn't say anything about race when he wrote his form out, he just talked about bad treatment.

Smith: He talked about -- citation that's were made up --

Katz: He said acted pig-headed and prejudiced.

Sten: What did he write on the form?

Hales: He wrote that -- why don't you read it?

Katz: I was saying the appellant.

Hales: Right.

Francesconi: I was on my way home by way of did I -- I think freeway, when the officer started to follow me on 205 freeway. To i-84. To 122nd exit. Stare -- I can't read the next word.

Hales: There the officer --

Francesconi: There the officer pulled me over and made up charges on me. So that's the allegation.

Sten: I'm not exactly sure, you know, that I have got evidence of disparate treatment. I'm looking for -- i'm also very troubled by -- that the evidence -- I guess i'm looking for your sense of, you know, what's the problem bills of why you get pulled over for going 35 on a freeway.

Smith: We're using that 35 on a freeway, and I don't know exactly where this is taking place. Even commissioner Hales made the statement, did he see him prior.

Hales: If we don't have any credible reason why we would chase him down a freeway for three miles, so that one goes out the window.

Smith: Your lack of understanding or the understanding about how the citation issued doesn't take away the -- he issued it for what he saw. We just don't understand why based on the information you want to take that component out and say it's no good.

Sten: Captain smith --

Smith: Not understanding where that incidence took place.

Hales: What we have to go on is common sense.

Sten: I'm trying to get your opinion on -- you've concluded that it's quite possible, which it might be, that this -- the ticket says going 45 in a 35 zone. That's what it says. So given that the officer doesn't remember, I have to assume he was being honest and accurate in what he wrote. So that then says that the speed limit is 35 and that he clocked this guy going 45. There's been no testimony by anybody to suggest that this didn't happen on the freeway. You're saying that because I don't know for sure, I can't assume that the only person who remembers the event is truthful. That's what i'm struggling with. I have one person who remembers the event. He said it happened on the freeway. There's no dispute of that by anybody. I have to assume he's not truthful?

Smith: The location the officer writes on the citation for the location of occurrence --

Hales: Let's get technical. Is there --

Katz: Wait a minute. Let him finish. [talking at once]

Katz: Somebody asked him a question.

Smith: 122nd I think and northeast fremont. I don't know if part of the violation that was observed would have been off that 122nd area before fremont. Because that's what the citation says. On or about such and such time, 122nd and fremont. So I don't know if that violation may have taken place there.

Hales: If an officer --

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Francesconi: What's the distance? How far is that from -- from the freeway to fremont?

Hales: Not very far. About three blocks.

Katz: Did you want to respond?

Hales: I have -- I want --.

Katz: We're going to nail it down in another way.

Hales: Let's nail this down. If in normal procedure a police officer pulls somebody over who is driving over the speed limit in a posted zone, what do they write on the citation? Don't they write 55 in a 35 zone? Don't they use the word "zone"? What do they write on the ticket?

Smith: I think -- I might need to ask for an expert who has written traffic citations. Is there anybody who can help me on that one?

Peter Hurley (PPB): On the ticket? [no audio]

Hales: What does the ticket say? We have it.

Sten: It just says 45, dash, 35.

Smith: And since then -- this happened in '98, I know we've had -- our citations have changed. I don't remember exactly one that was, but would it have been after this, the uniform citations for traffic.

Katz: Sergeant, are you here to -- here to help him or respond?

Steven Bechard, Lieutenant, PPB: I'm lieutenant bechard.

Bechard: Could it have been that the violation -- the violation of the 45 in a 35 was on glisan prior to the appellant getting on the onramp. Because it is 35 on glisan. And if that was the case and the officer did follow him onto the onramp, I think the captain has -- here has explained that is a very congested area where there's a lot of onramps and offramps in that one area, and a big curve in the road where you can't see traffic. So oftentimes officers will wait until they have a clearing, and if this person traveled to two or three exits and took the 122nd avenue exit, then it would have been an slept place to make --

Hales: Why wouldn't he turn his lights on in time to get him to take the 1 hundred second avenue exit?

Smith: I don't have an answer for you.

Hales: If he saw the violation beforehand, he would have gotten -- maybe he didn't want to pull him over on the freeway. We don't know. But we have to use common sense.

Bechard: The officer could have been running the information on the mvt waiting for a response to come back to see if the number --

Katz: I've been on ride-alongs where that happens. They don't -- it's down or they get a slow response and they continue. So it is possible.

Sten: Can I ask a follow-up question?

Smith: Can I add to that? The stare and the glare, one of the things they do quite common, officers will do, they'll look at a driver behind a wheel, they'll look at the plate, they could run a registration, look at the driver to see if they're going to match that, maybe see if he's wanted, all those things could be done prior to the actual traffic stop taking place.

Hales: If he was doing all that stuff and doing the normal police work that the mayor just described, why would he be in the lane to go onto i-84 west?

Smith: If we want to use that same article document that he wanted to identify the driver, wouldn't it be appropriate to drive alongside so you could see who the driver was to match a description from the dmv?

Hales: On an onramp where you've got a couple hundred feet to get into the right lane or --

Smith: You have plenty of time to make that lane change --

Sten: Let me just ask, this is an honest question, i'm trying to understand how you would recommend that I approach this. It is absolutely plausible that all those things could have happened. However, you have to make three or four major assumptions that are directly controverted by the only person who's testifying. Absolutely everything you're saying could have happened. This gentleman is flat-out saying it didn't happen and the officer is saying I don't remember. So it feels like you're coming up with reasons to say, well, who knows what -- that the officer was probably right, when the officer didn't make that case themselves, and so that's what i'm struggling with. He's flat-out said, you know, he's not under oath, but I got a sense of him that he'd probably take an oath on this, that that's not what happened. But you're saying to me it may -- he may just be wrong on this, so -- how do you approach that? It's -- on its face it looks like racial profiling. It does. It looks like -- if this story is true, the guy pulls up next to a police officer going the opposite direction on an onramp. He pulls behind him, follows him onto an onramp and cites him for going 45 on a 35 on a freeway that's not posted but common sense tells you its either 55 or 65 because that's every freeway in the state. That feels like he was pulling him over to see what was going on. And I can't come to that conclusion, and i'm not going to vote that way, but if we're going to extrapolate, we could extrapolate the other way, and the only facts i've got are what the gentleman said.

Sten: How do you approach that?

Smith: I think how you said that was if it is factual. We have a perception issue of an individual. This is important to this individual, because it happened to him. He's not comparing it to any other things. He made the complaint, he's been following through with it. I think the first part of that is if. I haven't really, from the complainant, heard factual information, other than per september wall information. We're not denying the officer may have made a lane change. We're not denying those other issues. What we're saying is that this officer was willing to pursue a traffic citation that he issued in court, follow it through, based on this particular event. I just don't have real specific issues or answers for you as it relates to where some of these violations may have been observed or witnessed by the officer. We're not denying that some of these things happened.

Hales: Let me understand a couple other things. Because the officer didn't show up at court for perfectly legitimate reasons, the charges were dismissed?

Smith: Correct.

Hales: And they didn't stay on this man's dmv record, therefore? Right?

Smith: To my knowledge, if they're dismissed --

Katz: Yes.

Hales: I haven't gotten a traffic ticket in 20 years, so help me out. I don't know how this works. Like the Mayor by not driving i'm a little inexperienced.

Katz: It's not on the ticket.

Hales: So he has no -- we're speculating on why people did what he did, this man has persevered on this appeal for a long time.

Hales: Thanks.

Katz: Captain smith, would it help if we got -- was it officer --

Smith: Officer out of east precinct.

Katz: Would it help if we brought him here?

Smith: I don't know that he would be able to tell you anything. I think he would have been more than happy to give us all the information at the time of our interviews.

Katz: A lot of the questions that we just -- I heard being asked in terms of what could have happened, would that -- would we get a better opportunity to get him to respond to that than you respond to that?

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Smith: Well, we -- what we could do -- I don't have an answer whether that would be -- I would suspect probably not. We could take this and if you have questions we can go ahead and take a look at those questions and see if we can try to answer those questions.

Katz: What's wrong with asking him to come here and explain the what-ifs?

Smith: In first person?

Katz: Correct. Lieutenant, what's wrong with that?

Smith: I don't --

Katz: We've never done --

Berchard: I don't think it would answer the questions. It would still be, he would still be speculating on what he had done. He's already stated that he doesn't remember the details of the incident, and he came here and again said that he couldn't remember the specific details. And then you asked him to speculate. We get into exactly what we've been doing here. And I don't think that we can resolve it through the speculation.

Katz: Okay.

Francesconi: I have one more question, but it back for mr. Watson. I don't know if I can call him back.

Katz: Yes, you can. Go ahead.

Francesconi: Mr. Watson, I have one more question. I'm sorry. Maybe two questions. Just, do you remember at what point the light -- the officer turned on the lights? Where were you when the lights were turned on? If you remember.

Watson: I had just turned on 122nd. Halfway down.

Sten: Does the ramp put you right on 122nd? When you come off the freeway?

Hales: It's perpendicular. You come around that big tight turn, you come to the stop, turn right.

Watson: Around the loop. At that time the policeman was coming around and I had the green light so I just continued on, and by that time he had turned and then I seen the lights. And it was like two other cars on the road at that time. And he got right behind me, by the time I hit the fremont street. And I pulled over right there.

Francesconi: So the lights were on -- I think there's an underpass where you come under the freeway.

Watson: Right. By that time I looked, he had just turned and flicked his lights on as he was turning.

Francesconi: How fast were you going at that time, do you know?

Watson: At that time, that's kind of tough. I'd say about 35.

Francesconi: Okay. Did you know he was still behind you?

Watson: Yeah.

Francesconi: Okay. The last question, it does say here he followed you on 205 to i-84. Commissioner Hales reminded me of the distance, because I was trying to remember. It is about 1 hundred -- 100 feet. It turns out 99 and 205 are almost right next to each other.

Watson: They are.

Francesconi: But they're different. 99 is not exactly 205.

Watson: No. It dies off there.

Francesconi: What dies off there?

Watson: 99 dies off and turns into the onramp to the freeway --

Hales: You were facing north, then?

Watson: Correct.

Hales: Okay.

Francesconi: Explain that again.

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Hales: It's basically a frontage road.

Sten: Could you describe from the top how you first came into contact with the officer? What happened, where was he, where were you?

Watson: I was coming from mall 205, that area. And you know how you go through that light at - - is that stark or Washington? Keep straight. It's a little runway to the freeway. And he was the only car there, and I was on -- the only car.

Hales: Pulled up to the stop light?

Watson: It was a red stop light.

Sten: Who got there first?

Watson: He was already there.

Hales: You actually confused us accidentally. You weren't on 99th, you were on the frontage road that runs between stark, Washington, and glisan, which is part of the interstate highway, but it a frontage road one way, two lanes. Right?

Watson: Yeah. Correct. And he was the only car there at that time.

Katz: We're on a different road now?

Hales: It's our fault. Because I thought he meant 99th. I think he said 99th, but it isn't. Call it whatever you want. It looks like -- it's a weird thing in between a street and a highway. You were both facing the same direction. You didn't turn, you just got onto the ramp.

Watson: Yeah.

Hales: He was in one lane you were in the other.

Watson: He was going to Portland, and I was in -- going to the dalles exit.

Hales: Do you know where he means, eric?

Sten: Yes.

Watson: At the time I look over there, and he's -- he looked at me, I nodded, you know, and I look straight ahead, and he -- yet still i'm look, okay, there's a policeman right here. And i'm looking out of the corner of my eyes, and he's -- i'm in a black corvette. And he's just, like, staring at me like that. Light changed green, I go on through the light, he does too, and then he just shifts over. One of them fast shifts. At that time i'm like, oh, what do you want?

Francesconi: Is fremont -- 122nd, is that two lanes as you're coming under?

Watson: Yeah, it's two lanes.

Francesconi: One way each --

Smith: I think there's even a center divider.

Watson: It's one coming off --.

Francesconi: Did you change lanes on 122nd?

Watson: No. The lane I turned in, I stayed in, which was the far lane.

Francesconi: Commissioner Hales -- commissioner Sten, you may not want to answer this, is there an alternative between sustain and insufficient finding? What were you thinking about in terms of how to resolve this?

Sten: I -- i'm not sure. I think you would -- it would make me feel bet ore these cases if captain smith when we got back to them, I think when it takes two years, the person is owed an apology. Because they have no chance at a fair review. It's impossible for this gentleman to get a fair review of this case on this time period. There's no chance at all. So --

Smith: We agree.

Sten: What i'm struggling with is, do you put a finding on an officer when they say, hey, I didn't remember. That's the tricky part. But I --

Katz: What did you say?

Watson: I wish I could.

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Sten: I think he's owed an apology. I would be open to -- I don't know if he would be, i'm not saying you should make up your own mind, I would be open to trying to find some way to take a shot at mediating this again, which he was willing to do, but basically i'm -- I have what I consider just a little bit more than circumstantial evidence that something was not right about this -- about this situation. And for me it's the 45 miles, and there's no reason to debate it again. Giving somebody a ticket --

Smith: We have done it in the lane change as well. And I understand what you're saying, I -- it's too long. There's not a defense that we would begin to give on that.

Sten: If he -- this does get sustained, not with you, captain smith, but I think this officer's gripe is with the bureau for not handling it in a timely basis, because the bureau -- the bureau compromised every right to a fair hearing that this officer, you know, and this gentleman had. Both of them are due a fair thorough investigation and neither of them can get justice in this. Then the question becomes, how do you err? And that's what i'm struggling with. The evidence leads me to believe something I don't think was appropriate happened that night. And that's what i'm struggling with.

Hales: I think when you -- the question is where do you err in a situation like this, and I think you have to err on the side of the citizen. I'm ready to make a motion. I think we need to make a decision in this case based on the evidence we have in front of us, which --

Katz: I need to understand what the motion is going to be.

Hales: That we adopt a finding of sustained.

Smith: Is it my understanding because your lack of understanding about the citation?

Hales: Please don't understand ever use that personal. I understand the citation as well as anybody in this room can understand it. I'm talking about the complaint and the information we have about the incident, and therefore I find enough evidence to adopt a finding of sustained for disparate treatment.

Katz: That is a very serious allegation on a police officer's record. On what we just have heard. That is very serious.

Hales: I understand it's serious.

Katz: And that's why --

Smith: My understanding was I think I heard mr. Hales say earlier, you're innocent until proven guilty. I have not seen from this investigation such -- substantial information that would show or lean that way. I hear a lack of understanding about where the citation was. We don't have an understand -- an opportunity to be able to refute that. Based on the citation, I keep hearing this 45 in a 35, I understand -- and understanding exactly where that is, that has raised concerns or questions in one's mind, therefore something must be wrong. And I think to come to that conclusion, then I think we are not looking at that based on innocent until proven guilty. The information I don't believe is there.

Hales: The police bureau has an opportunity in this case and in any in the future, in this review process or any other, to do a good job of investigating a citizen's complaint. In this case, a citizen has made a complaint and has done a good job of explaining the incident as best as he recalls it, and it's -- as truthfully as he -- I hope he can, and I believe he's being truthful, and the evidence that I see in front of me says that he received disparate treatment. Could the bureau have brought more evidence to bear? Yes, it could have. Whose problem is that? Not the city council's. We have a case in front of us brought to us by the usual procedure, a citizen with a complaint, and we have some information. So we have to apply common sense to the facts and that's the conclusion I reach in applying the common sense to that facts and mayor, unless we're going to continue an endless dialogue with staff, let's take a vote on the motion. I'll move we adopt a finding of sustained. And i'll see if there's a second. Then we'll see if it will pass.

Sten: Second.

Katz: [roll call]

Francesconi: What I was going to suggest, and I guess I want to -- i'm going to -- what I would suggest, if the -- if commissioner Hales and commissioner Sten think it's worthwhile, that we give either the chief or the officer an opportunity to respond to this. I think that would be the -- we should consider doing that. If you don't want to do this -- do that, on the basis of what i've heard here, i'm going to vote to support the motion. And the reason i'm going to do that is because there's two basic reasons, one is that it just doesn't add up. I mean, the circumstantial evidence presented to us just doesn't add up. That's number 1. Number 2, I have to find because it's part of my job in this circumstance, a finding of credibility on the basis of the appellant. There are many circumstances where we don't, but in this case, I would. So when you combine those two factors, -- having said that, the reason I would suggest we do this is because in this proceeding it's the bureau's delay that caused this problem, and I really hate to penalize the officer for that. Without giving the officer and the bureau a chance to respond a little more directly. So I think that we should do that. So I guess how does commissioner Hales, commissioner Sten feel?

Hales: Let me interrupt your vote.

Katz: We're in a roll call.

Hales: Let me respond. I'm not unsympathetic.

Francesconi: I know you're not.

Hales: I know we're making a serious finding when we adopt this finding of sustained. However, we put this officer in a ludicrous untenable position if we call him back, because he's already told an official will iad proceeding that he doesn't remember. So if he were to suddenly remember things under pressure from the city council, you see my point. My whole point in asking, do you really not remember and i don't want to go there.

Francesconi: I wasn't suggesting that. I was thinking his representative may wish to point out where we missed the logic here. You give a chance for a representative to speak. But again, I -- as i've said, this evidence, I would vote aye. If you don't want to take it up --

Katz: I suggested -- I said when I watched you last time, I said, no, I will not support that changing a majority report from the piac without 6-2 for insufficient evidence without bringing the officer, if the officer was willing to come here. Now, that's the way -- I particularly feel, because you're right, commissioner Hales, because there was a long period of time between the investigation, the officer didn't remember, but he may -- he may be able to explain a procedure that he may use on a regular basis that maybe clarifies something.

Hales: At this point it's up to the bureau to explain the procedure. There is no difference between any one of our 1,000 police officers and any other in this circumstance since the officer in question claims to remember nothing. Captain smith is good enough, any other officer of the bureau is good enough to explain --

Katz: Boy, I wouldn't want --

Hales: Put him in the position of explaining the procedure, we're not a court, he's sort of perjuring himself by all of a sudden remembering details -- it's bad enough we have to sustain this finding because the bureau didn't conduct a timely investigation. But to put him in that position --

Hales:

Sten: I guess a couple of things. Under our current system, you should know this because it still bugs me, the chief has the absolute authority to overturn this council. So that's the -- the ability for the chief to revisit this is statute. So I think that's available. I do think that part of what's irking me here is sort of the hard work to try and figure out how he could be not telling the truth when everything -- when every question I ask him comes up with a consistent answer. So I think if

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there's some work done to mediate with this gentleman, why it took two years to do this, why his truthfulness is being attacked in this forum without any -- that's the kind of thing that would make a difference to me, and I feel if something was done to -- ultimately most of these problems are about human relations, not about violence and all the things that get the headlines. If there's some work done with this gentleman to make what happened to him right, it's not of major consequence to me, you know, exactly what goes into the record. But given the preponderance of the evidence it says to me i've got to sustain the complaint.

Katz: Let me see if I understand this. He can overturn it. Does the majority of the council want to bring the officer here? There's two of us that would like at least -- you don't.

Sten: I'm not -- if somebody wants to try and -- there's somebody in the system wants to try to convince me i'm wrong, and my main concern is this gentleman being treated right, both -- not just that night, but the way his complaint got handled was outrageous. But i'm not going to say I want the officer to come in -- that's something I want something propose to me as opposed to I propose to them. And put them in a worse position. I think it's -- i've got to deal with what the bureau brings me on the day this is scheduled.

Katz: Let me ask the question about mediation. Are we willing to set this aside and have the officer and mr. Wilson it is down --

*****: Watson.

Katz: I'm sorry, mr. Watson sit down and mediate?

Francesconi: I guess now that one i'm not nuts about. The reason i'm not nuts about it is this is not just a private dispute between a police officer and mr. Watson. It's not -- that's not the issue here. I guess i'm not happy with that one.

Katz: Then let's take a vote. I've tried.

Francesconi: For the reasons i've stated, my vote is aye.

Hales: Aside from all the legalities and attempts at logic up here tonight, you were not well treated by an employee of the city of Portland and therefore by the city of Portland and on our behalf, I apologize. Aye.

Sten: I think i've explained my reasoning. I think i've got one person that's -- that hasn't had the facts disputed, a very poor investigation before your time. So I vote aye.

Katz: I'm going to vote no, but I do want to apologize on behalf of this citizens of the city of Portland, mr. Watson. You deserved an early investigation and the facts, and an apology, or mediation. The reason i'm voting no is because I know how serious an officer's record is disparate treatment. And I am uncomfortable doing that, finding somebody guilty, a, without the officer being here, or because the bureau as you said, has taken a long time in investigating this. To have that placed on his record. Quite frankly, would I have preferred to bring the officer in. I have the power of subpoena, and i'm going to investigate whether I can use that power of subpoena at my will on cases like this. But when I watched all of you last time, I was not happy with you changing piiac's recommendations without talking or without having the officer just like we have mr. Watson here without having the officer at least try to answer some of the questions even if he could -- if he said I don't remember this particular incident, but this is what I usually do when I give traffic citations. Because I heard things here that are plausible, though i'm not sure I understand all the details of this particular case, but I have been on ride-alongs long enough to know that in many cases they ride for quite a while until they get the information back on the driver's license of the person that's in question. So i'm going to vote no, but I apologize on behalf of the city, mr. Watson. Fine, everybody, we stand adjourned.

At 8:30 p.m., Council adjourned.

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FEBRUARY 22, 2001 2:00 PM

Hales: Council will come to order. Call the roll please.

Francesconi: Here. **Hales:** Here. **Sten:** Here.

Hales: Mayor Katz and Commissioner Saltzman are away and it's just the 3 of us. We have one item in front of us. Could you read that item.

Item No. 229.

Hales: Okay, we have revised findings.

Kara Fioravanti, Office of Planning and Development Review: That's right. You have a copy of the revised findings last friday, and basically, those revised findings reflect your discussion of two weeks ago, and also eliminate the yard and the path portion of the project. So all you are approving would be the building changes.

Hales: Right. Okay. Thanks. Okay. Any questions for staff? And if not, is there a motion to approve the revised findings?

Sten: So move.

Hales: Is there is second?

Francesconi: Second.

Hales: Any further Council discussion? Roll call.

Francesconi: Aye.

Hales: Aye.

Sten: Aye.

Hales: We are adjourned.

At 2:08 p.m., Council adjourned.